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#### WASHINGTON, DC

- WHEN:** November 19, 1996 at 9:00 a.m.
- WHERE:** Office of the Federal Register  
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(3 blocks north of Union Station Metro)

#### RESERVATIONS:

202-523-4538



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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 53, 71, 82, 92, 94, and 161

[Docket No. 87-090-3]

RIN 0579-AA22

#### Exotic Newcastle Disease in Birds and Poultry; Chlamydiosis in Poultry

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are revising completely the regulations concerning exotic Newcastle disease in birds and poultry, and psittacosis or ornithosis in poultry. We reviewed part 82 as part of our ongoing review of existing regulations, and have determined that a complete revision of subpart A is necessary. Revising the regulations will make them easier to understand, thereby increasing compliance with the regulations, and will make them more effective in preventing the interstate spread of these diseases. We are also amending other parts to reflect the amendments we are making to part 82.

**EFFECTIVE DATE:** December 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Dr. Keith Hand, Senior Staff Veterinarian, Import/Export Animals Staff, National Center for Import-Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-5097.

#### SUPPLEMENTARY INFORMATION:

Background

#### Part 82

The regulations in 9 CFR part 82, subpart A, restrict the interstate movement of certain poultry, birds, and other items from premises and areas quarantined because of exotic Newcastle

disease, and psittacosis or ornithosis.<sup>1</sup> These regulations are designed to prevent the interstate spread of these contagious, infectious, and communicable diseases of birds and poultry, which could devastate the United States poultry industry.

On June 28, 1994, the Animal and Plant Health Inspection Service (APHIS) published in the Federal Register (59 FR 33214-33233, Docket No. 87-090-1) a proposal to amend the regulations by revising completely the regulations in subpart A. The proposal to revise subpart A was the result of a review of the exotic Newcastle disease and psittacosis/ornithosis regulations we conducted in accordance with our regulatory review plan, which provides for ongoing review of existing regulations.

We solicited comments concerning our proposal for 60 days ending August 29, 1994. Among the comments we received was a request for an extension of the comment period. In response to this request, we published a notice in the Federal Register on September 30, 1994 (59 FR 49865, Docket No. 87-090-2) reopening and extending the comment period until November 29, 1994. We received a total of seven comments by November 29, 1994. They were from representatives of a poultry industry council, an exhibitor association, academia, a conservation society, an industry advisory association, a veterinary medical association, and a State department of agriculture. We discuss below each of the issues the commenters raised. In discussing the comment issues, we have divided them into those that address only exotic Newcastle disease (END), those that address only chlamydiosis, and those that address part 82 as a whole.

#### Comments Addressing Exotic Newcastle Disease (END)

In the current regulations, *exotic Newcastle disease* is defined as "the exotic viscerotropic type of Newcastle disease, a contagious, infectious, and communicable disease of poultry." In our proposed rule, we proposed to amend the definition of *exotic Newcastle disease* to mean "any

<sup>1</sup> Psittacosis and ornithosis are two different names for the same disease. However, "psittacosis" commonly refers to the disease in humans and birds and "ornithosis" refers to the disease in poultry.

velogenic Newcastle disease." One commenter requested further clarification of the reason for the proposed change. Another commenter asked us to reconsider this proposed change, expressing concern that the revised definition would apply to neurotropic velogenic Newcastle disease, and stating that neurotropic velogenic Newcastle disease is not exotic and may be less transmissible than velogenic viscerotropic Newcastle disease.

We are making no changes to the proposed regulations as a result of these comments. As we discussed in our proposal, "velogenic" refers to the severity of the strain of the virus in question. If there were an outbreak of any velogenic Newcastle disease in the United States, it would be treated in the same way as velogenic viscerotropic Newcastle disease. This would include neurotropic velogenic Newcastle disease. We disagree that neurotropic velogenic Newcastle disease should not be considered an exotic disease. There are currently no known incidences of this disease in the field in the United States, and there have been a very limited number of incidences in the past. We believe that any case of a velogenic Newcastle disease has the potential of causing a serious outbreak with severe economic losses, and must be dealt with in the same way as velogenic viscerotropic Newcastle disease.

One commenter expressed concern with § 82.2 of our proposal, which provided in part that clinical evidence would be one of the factors considered in determining whether birds or poultry are infected with END. The commenter stated that because the clinical signs of END can mimic those of avian influenza, END should not be considered to exist until at least one signal case has been diagnosed in the immediate area and has been confirmed with diagnostic tests.

We are making no changes based on this comment. According to standard protocol, END is considered to exist in an area after an initial case has been confirmed through laboratory diagnosis. However, once such a confirmation has been made, it is possible, and often necessary in effectively controlling an outbreak, to rely on disease diagnosis through clinical and/or exposure factors.

Several commenters expressed concern that although the proposed regulations included special provisions for the interstate movement of pet birds in the event of an outbreak of END, there were no similar provisions for the movement of zoological or avicultural birds. As proposed, birds and poultry other than pet birds could move interstate only to slaughter. We agree that special provisions need to be made for birds that are not pet birds and that are not known to be infected with or exposed to END, and we are including such provisions in § 82.5(b) of this final rule. Under these provisions, birds other than pet birds that are moved interstate from an area quarantined due to END would be subject to the same restrictions as poultry, except that they would not be required to be moved to slaughter.

Several commenters expressed concern with the provision in proposed § 82.3 that stated that less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as the APHIS regulations. One commenter stated that such a quarantine of an entire State would affect all zoos and aviculturists within the State. Another commenter recommended that, instead of quarantining an entire State when that State's requirements are not as stringent as APHIS's, the regulations should prohibit interstate or intrastate movement from a quarantined area unless the Federal requirements in part 82 of the regulations are met.

We are making no changes based on these comments. As discussed above, we are making provision for the interstate movement of zoological and avicultural birds, which would allow for movement of such birds even from a State that has been quarantined in its entirety. Further, APHIS's regulatory authority does not extend to intrastate movement unless the Secretary has declared an "extraordinary emergency" in a particular State. Extraordinary emergencies historically have been declared only rarely, in those cases where the Secretary, in consultation with the governor of the State, has determined that the State is unable to take adequate measures to control a disease outbreak. In most cases, it has not been necessary for the Secretary to declare an extraordinary emergency because the State in question has implemented control measures at least as stringent as those established by APHIS.

One commenter recommended that the regulations contain a provision

exempting the eggs of zoological and avicultural birds from cleaning and sanitizing requirements for interstate movement. We are making no changes based on this comment. The provisions in § 82.9 of the proposal for hatching eggs contained no requirements for cleaning and sanitization. Such requirements applied only to eggs other than hatching eggs.

One commenter asked whether the sanitization of eggs other than hatching eggs required by proposed § 82.8 would include sanitization by spraying. As proposed and made final in this document, § 82.8(a)(1) requires that eggs other than hatching eggs to be moved interstate from a quarantined area be cleaned and sanitized in accordance with 7 CFR part 59, which consists of regulations promulgated by the Agricultural Marketing Service, USDA. In § 59.16 of those regulations, a procedure for sanitization by spraying with a mixture of chlorine or its equivalent and potable water is described.

Section 82.10 of the proposed rule provided that equipment used in a quarantined area in the handling of birds or poultry or their eggs, or in the handling of manure generated by or litter used by the birds or poultry, must be made of hard plastic or metal to be moved interstate, and must be cleaned and disinfected after such movement. One commenter recommended that the regulations allow for the use of equipment made from materials such as cardboard, fiber, and waxed cardboard, provided such equipment is disposed of after use, preferably by incineration. We agree with the commenter that if such equipment has been previously unused, and is disposed of by incineration without being reused after interstate movement, it will not pose a risk of spreading the END virus. Therefore, we are providing for such use under § 82.10(b)(2) of this rule.

Section 82.14 of the proposed rule, among other things, described ways manure and litter could be disposed of in order for an area to qualify for removal from quarantine. The methods of disposal included burial, composting, and spreading and turning under. One commenter stated that the proposed conditions for spreading and turning under were less stringent than those for burial and composting, and expressed concern that disposing of manure and litter through spreading and turning under could allow for transmission of END. We consider the spreading and turning under of manure or litter as prescribed in the proposed rule to be adequate to prevent the dissemination of END. Properly carried out, spreading

manure or litter dilutes the manure or litter to such an extent that pockets of END contamination are eliminated. The procedures for burying and composting litter and manure are more stringent than those for spreading and turning under, because burial or composting is generally done when the manure or litter contains dead birds or poultry. As we noted above, however, spreading and turning must be properly carried out to be effective. Therefore, we are adding a provision to § 82.14(e)(3) that manure and litter may be disposed of by spreading and turning under only if carried out under the direct supervision of a Federal representative or a State representative.

One commenter requested clarification of the criteria we would use in quarantining an area for END. Proposed § 82.3(a) reads in part that "(a)ny area where birds or poultry infected with END are located will be designated as a quarantined area. A quarantined area is any geographical area . . . deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END." The commenter recommended that the regulations make clear that exposed birds and poultry would be included in a quarantined area. We believe the proposal as written conveys our intent, and we are making no changes based on the comment. As stated in the proposed regulations, in the event of an END outbreak, we will establish a quarantined area based on the existence of infected birds or poultry in the area. However, once infected birds or poultry are determined to exist in an area, the boundaries of the quarantined area will be drawn to encompass any birds or poultry that are considered to have been exposed to the disease agent.

In several different sections of the proposed rule, the regulations regarding the interstate movement from a quarantined area of regulated articles require that a copy of the permit necessary for such movement be submitted so that it is received by both the State animal health official and the veterinarian in charge in the State of destination within 72 hours of arrival. One commenter stated that the availability of technology such as facsimile machines allows for quicker notification, and that a period shorter than 72 hours should be required for submission of a permit. We are making no changes based on this comment. Although we agree that timely notification of the interstate movement of regulated articles is important, and that such notification can be made in less than 72 hours in most cases, we

consider it incorrect to assume that all persons moving regulated articles interstate have the capability to do so in significantly less than 72 hours. We continue to consider 72 hours adequate time for notification.

Proposed § 82.9(c) included the requirement that hatching eggs moved interstate from a quarantined area be held at a designated premises, and that birds and poultry hatched from the eggs be held at the premises for at least 30 days after hatch. One commenter objected to the additional proposed provision that, during the holding period, the eggs and any birds or poultry hatched from the eggs would be subject to any inspections, disinfections, and tests as may be required by the Administrator to determine their freedom from END. The commenter stated that affected entities should know in advance what may be required. We are making no changes based on this comment. The provision in question was included in the regulations because, although we anticipate that such inspections, disinfections, and tests will in most cases not be necessary, we consider it important to provide the Administrator with the discretion to respond to currently unforeseen situations.

One commenter recommended that the provisions in proposed § 82.5 state that owners moving pet birds interstate from a quarantined area will be provided with the names and addresses of Federal and State officials in the State where they are taking their pet birds. Currently, a footnote to § 82.4 of the existing regulations indicates that such information will be provided to owners of pet birds. We are making no changes based on this comment. The regulations as proposed contain a footnote that indicates where owners of pet birds can obtain the names of appropriate Federal and State officials. While this information does not preclude APHIS otherwise supplying the necessary information to owners, it provides owners with several options for securing the information.

#### Comments Addressing Chlamydiosis (Psittacosis or Ornithosis)

One commenter stated that chlamydiosis should not be a matter for Federal regulation. The commenter expressed the belief that the uncommon and sporadic appearance of the clinical disease among poultry species reflects far more significantly the wide range of toxigenesis among strains of the agent than the presence or absence of the agent. The commenter stated that endemic infection with the chlamydiosis agent is widespread

among both mammalian and avian species, and that epidemiologic investigation of disease in poultry has not implicated exotic pet birds, interstate movement of poultry, or spread between ranches.

We are making no changes based on this comment. We disagree that chlamydiosis should not be a matter for Federal regulation. Under 21 U.S.C. 111, 114, and 114a, the Secretary of Agriculture is authorized to establish such regulations and take such measures as he or she deems necessary to prevent the introduction or dissemination of any contagious, infectious, or communicable disease of animals and/or poultry from a foreign country into the United States or from one State or Territory to another. Historically, the Department has taken regulatory action when the disease manifested itself in commercial poultry flocks.

One commenter recommended that, as a safeguard against chlamydiosis, the regulations should require that imported psittacine birds be treated for 45 days with antibiotics. We are making no changes based on this comment. Currently, birds imported into the United States are required to be quarantined for 30 days. During the 30-day quarantine, the birds are treated with antibiotics, and we recommend to their owners that the treatment be continued for an additional 15 days. We consider this practice a practicable alternative to extending the quarantine beyond 30 days.

One commenter recommended that, in order to control chlamydiosis more effectively, the regulations should require psittacine birds to be identified with legbands to facilitate traceback and reduce smuggling. We are making no changes based on this comment. Our regulations for importing birds, contained in 9 CFR part 92, already require that imported birds be legbanded while in quarantine (see § 92.106(c)(3)(ii)(E)). We do not consider it practicable or enforceable to require legbanding of birds that are to be moved interstate.

#### Other Comments

In the explanatory information of our proposal, we indicated that we were proposing to reorganize part 82 by dividing it into three subparts, rather than the existing two. In our proposal, we discussed two of the proposed three subparts—those pertaining to exotic Newcastle disease and chlamydiosis. One commenter requested that we also discuss the third subpart. As we explained in our proposal, the third subpart, subpart C, would contain the

*Salmonella enteritidis* serotype *enteritidis* regulations. Because we proposed no changes to those regulations, we did not consider it necessary to discuss them in the proposed rule.

Several commenters addressed issues outside the scope of the proposal, including whether APHIS personnel resources would be sufficient to carry out the regulations. Although we are making no changes based on these comments, we have carefully reviewed all comments.

#### Part 53—Definitions

Part 53 of title 9, Code of Federal Regulations, concerns, among other things, the payment of indemnity for poultry and materials destroyed because of contamination by or exposure to END.

In our proposal rule, we proposed to revise the definition of *disease* in part 53 to remove outdated references and to add a description, within that definition, of “highly pathogenic avian influenza.” In this final rule, we are removing the description of “highly pathogenic avian influenza” from the definition of *disease* and, instead, separately defining the term “highly pathogenic avian influenza” to reflect the latest technical information about this disease. Under this final rule, “highly pathogenic avian influenza” is defined as (1) any influenza virus that kills at least 75 percent of eight 4- to 6-week-old susceptible chickens within 10 days following intravenous inoculation with 0.2 ml of a 1:10 dilution of a bacteria-free, infectious allantoic fluid; or (2) any H5 or H7 virus that does not meet the criteria in paragraph (1) of this definition, but has an amino acid sequence at the hemagglutinin cleavage site that is compatible with highly pathogenic avian influenza viruses; or (3) any influenza virus that is not an H5 or H7 subtype and that kills one to five chickens and grows in cell culture in the absence of trypsin.

Additionally, to maintain consistency with the terminology used in the definition of *disease* in § 53.1, we are removing a reference to “lethal avian influenza” in § 53.2(b) and replacing it with the term that is defined, “highly pathogenic avian influenza.”

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the proposed rule with the changes discussed above.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has

been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis regarding the impact of this rule on small entities.

#### Regulatory Authority

In accordance with 21 U.S.C. 111–113, 114a, 115, 117, 120, 123, and 134a, the Secretary of Agriculture has the authority to promulgate regulations and take measures to prevent the introduction into the United States and the interstate dissemination within the United States of communicable diseases of livestock and poultry, and to pay claims growing out of the destruction of animals. Animal health regulations promulgated by the Department under this authority include those regarding END and chlamydiosis in 9 CFR part 82, and those regarding payment of claims in 9 CFR part 53.

#### Background

##### *Chlamydiosis*

Sporadic outbreaks of chlamydiosis in commercial poultry flocks have occurred in the United States over the past decade. APHIS, working with State cooperators, has successfully eliminated chlamydiosis on each occasion. This rule includes only minor changes related to chlamydiosis, specifically the addition of a requirement for a permit or special permit to move certain items interstate. We consider these documents necessary to allow the Department to better monitor the interstate movement of the items moved. However, the economic impact from these requirements will be negligible.

##### *Statement of Need for Regulatory Changes Regarding END*

Beginning with the successful conclusion of the southern California END emergency eradication program in 1974 (see discussion below), the U.S. poultry and egg industries have become increasingly vertically integrated. This vertical integration has led to further concentration of poultry and egg production in specific geographic regions of the United States. With large numbers of poultry facilities operating in close proximity to each other, there is an increased opportunity for another major END outbreak. The existing END regulations were drafted prior to the increased level of industry concentration, and they require revisions to reflect the changes that have taken place. APHIS considers the revisions in this final rule to be

necessary despite the widespread adoption of vaccination and biosecurity practices by commercial poultry producers since the 1971–1974 END outbreak. The current value of the domestic poultry and egg industry is estimated to be about \$18.6 billion. Broiler production accounts for 63 percent of total production, followed by eggs (21 percent), turkeys (15 percent), and other chicken production (1 percent). Therefore, we consider the changes to the existing END regulations necessary due to the dynamic nature of the disease and its continued potential to devastate an important sector of U.S. agriculture.

Exotic birds are capable of transmitting the END virus to commercial poultry and egg flocks. Under the existing provisions, APHIS routinely refuses entry of entire shipments of imported birds when the END virus is detected. The importer is given a disposal order and has 72 hours to remove the birds from the United States or have them euthanized. In the past two decades, the domestic exotic bird industry has changed. Domestic production has intensified for those exotic species that can be readily bred in captivity. The Wild Bird Conservation Act of 1992 drastically reduced the number of exotic birds imported into the United States, from slightly under 1 million birds a year to less than 100,000 a year. Only those species of birds exempt from this Act may be imported. Illegal importation of exotic bird species continues to be an avenue for the introduction of END into the United States.

#### Changes to END Regulations

In the absence of an END outbreak, the regulatory changes will have a negligible impact on the domestic poultry and exotic bird industries. The END revisions will strengthen APHIS's ability to prevent the interstate spread of END in the event of a domestic outbreak, and in some cases relieve certain restrictions. The changes include new requirements for removing an area from quarantine; specific provisions for moving birds that are not known to be infected with or exposed to END out of a quarantined area; new provisions regarding the interstate movement of manure and litter from a quarantined area; and new provisions regarding the interstate movement of cages, coops, and equipment from a quarantined area. A brief overview of these new END regulations is as follows:

1. Interstate movement from a quarantined area is prohibited for each of the following: (1) Live birds and poultry infected with or exposed to

END; (2) eggs from birds or poultry infected with END; (3) hatching eggs from birds or poultry exposed to END; (4) litter used by or manure generated by birds and poultry infected with END; and (5) dead birds and poultry, including any parts of the birds and poultry, infected with END.

2. An area will be removed from quarantine when all: (1) Birds and poultry infected with END in the quarantined area have been euthanized and all dead birds and poultry within the quarantined area have been buried, reduced to ashes by incineration, reduced to dust by composting, or rendered; (2) birds and poultry exposed to END have been found to be free of END; (3) eggs produced by birds or poultry infected with or exposed to END in the quarantined area have been buried, reduced to ashes by incineration, or rendered; (4) manure produced by or litter used by birds or poultry infected with or exposed to END in the quarantined area has been reduced to ashes by incineration, or has been buried, composted, or spread on a field and turned under; (5) vehicles with which birds and poultry infected with or exposed to END or their excrement or litter have had physical contact have been cleaned and disinfected; (6) cages, coops, containers, troughs, and other equipment used for birds or poultry infected with or exposed to END, or their excrement or litter, have been reduced to ashes by incineration or have been cleaned and disinfected in accordance with 9 CFR part 71; and (7) the premises where birds or poultry infected with or exposed to END were located have been cleaned and disinfected in accordance with 9 CFR part 71.

3. Replacement birds and poultry will not be allowed to be placed in quarantined areas until the Administrator decides that END has been eradicated and that replacement birds and poultry would not become infected with END.

4. Eggs, other than hatching eggs, from birds and poultry not known to be infected with END may be moved interstate from a quarantined area under the following conditions: (1) A permit has been obtained and the eggs are accompanied by the permit; (2) the eggs have been cleaned and sanitized in accordance with 7 CFR part 59; (3) the eggs are packed either in flats or cases that have not been used before, or in used plastic flats or cases that were first cleaned and sanitized in accordance with 9 CFR part 71, and any of the flats and cases intended for reuse are cleaned and sanitized in accordance with 9 CFR part 71 before being moved to a

premises where birds or poultry are kept; (4) the eggs are moved interstate to a processing facility where they are inspected to ensure they are cleaned and sanitized; and (5) a copy of the permit is submitted to the State animal health official and the veterinarian in charge for the State of destination.

5. Hatching eggs from birds and poultry not known to be infected with or exposed to END may be moved interstate from a quarantined area under the following conditions: (1) A permit is obtained and the hatching eggs are accompanied by the permit; (2) birds or poultry from the eggs are held in the State of destination for not less than 30 days after hatching, at a premises designated jointly by the veterinarian in charge and the State animal health official; and (3) a copy of the permit accompanying the hatching eggs is submitted so that it is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the hatching eggs at the premises where they are to be held.

6. Pet birds may be moved interstate from a quarantined area provided that, among other provisions: (1) An APHIS permit has been issued; and (2) the pet birds are not known to be infected with or exposed to END.

7. Interstate movement from a quarantined area will be permitted for each of the following only if specified requirements are met: (1) Live birds and poultry, other than pet birds, that are not known to be infected with or exposed to END; (2) manure and litter from birds and poultry exposed to END; (3) manure and litter from birds and poultry not known to be infected with or exposed to END; (4) new or properly disinfected cages, coops, containers, troughs, vehicles, or other equipment used to handle infected or exposed birds and poultry, and their eggs; (5) dead birds and poultry, including any parts of the birds and poultry, that are not known to be infected with END.

#### Potential Economic Impacts

The regulations will enhance APHIS's ability to monitor interstate movement of birds and poultry from areas quarantined because of END. Domestic poultry, egg, and exotic bird operations will be impacted only in the event of an END outbreak. There has not been a major domestic outbreak of END since an epidemic in southern California in 1971-74. However, END is periodically detected in isolated pet bird populations. Smuggled shipments of exotic species are the source of most outbreaks of END. Historically, APHIS has euthanized all pet birds that are

found within a store in which birds are infected with END. The rule changes will enable APHIS to be more selective and destroy only those birds and poultry that have been diagnosed as being infected with END. We expect that the savings to the industry from this more selective euthanization will outweigh any additional restrictions that will be imposed by the rule changes. Domestic entities will not be severely impacted by this rule unless an END outbreak occurs.

#### Estimated Economic Impact of a Major END Outbreak

Eliminating END requires the detection of the virus in a flock, appraisal, and rapid, humane destruction of the infected flocks. It also requires that all premises that contained infected or exposed flocks be cleaned and disinfected. Depopulation will not occur until an appraised value is determined and the owners have signed the appropriate forms.

At the time of the 1971 END outbreak in southern California, there were approximately 1,115 commercial poultry and bird flocks in that part of the State. Commercial flock populations ranged in size from approximately 1,000 to more than 3.4 million birds and poultry. The estimated population of birds and poultry in southern California's commercial operations totaled more than 38.9 million. The average poultry operation contained approximately 55,000 birds. In southern California, the poultry industry was dominated by layer operations that produced table eggs for markets in California and neighboring States. In addition to commercial flocks, there were approximately 39,960 backyard poultry flocks with a total population of approximately 1 million.

A national animal disease emergency was declared by the Secretary of Agriculture in March 1972, which placed the eight southernmost counties in California under quarantine. The last case of END was diagnosed in June 1973, and surveillance programs continued until July 1974. Eradicating END from the area required the destruction of nearly 12 million infected and exposed birds and poultry. Most of the birds and poultry depopulated were laying hens. The effort cost approximately \$55 million. Approximately half (\$27.5 million) was for indemnities paid to flock owners for poultry, birds, eggs, and supplies destroyed. Approximately 91 percent of the depopulated birds and poultry were commercial layers, followed by 6 percent for pullets and broilers, 1 percent each for turkeys and breeding

poultry, and less than 1 percent each for pigeons, backyard aviaries, game birds, and exotic birds.

Between March 1972 and December 1992, the poultry and bird population in the original quarantined area decreased from approximately 38.9 million to 19.1 million. Conversely, the number of commercial flocks in the 1972 END quarantined area increased from approximately 1,115 to 1,856 by 1992. The increased number of bird and poultry flocks since 1972 can be attributed to expansion of the exotic bird industry. Importers and producers of exotic birds are not as vertically integrated as poultry producers. More exotic bird operations also helped to account for decreases in average flock size since 1972. Additionally, increased urbanization in traditional poultry producing sections of southern California have forced many poultry operations to close or relocate.

APHIS estimates that if a similar END outbreak were to occur in southern California today, up to 5.3 million birds and poultry could be required to be depopulated, and indemnities totaling \$15.1 million dollars would be paid to producers. Adoption of vaccination and biosecurity practices by commercial poultry producers in Southern California since the 1971-1974 END outbreak would likely mitigate total losses. Newly developed diagnostic techniques should enable APHIS to be more selective when euthanizing birds and poultry in areas quarantined because of END. Although this should result in the destruction of fewer birds and poultry, the actual potential impact of the regulations is unknown.

#### Estimated Economic Impact of an Isolated END Outbreak

Under APHIS regulations, all imported birds are quarantined for a minimum of 30 days to prevent the introduction of foreign animal diseases, particularly END.

Exotic bird species have been imported into the United States primarily for use as pets for several decades. During fiscal year 1995, approximately 85,207 exotic birds were legally imported into the United States. Only 882 birds were confiscated for illegal entry or animal health reasons. APHIS estimates the value of the confiscated birds totaled approximately \$8,535 during fiscal year 1995. In addition to legal importation, exotic bird species are also smuggled into the United States. Birds are smuggled for a variety of reasons, such as the avoidance of quarantine costs and illegal importation of prohibited species. The inherent nature of smuggling makes

reliable data impossible to obtain. However, APHIS estimates that the number of smuggled birds entering the United States ranges from 25,000 to 150,000 annually. Smuggling increases the likelihood that domestic birds and poultry could be exposed to END.

Under this rule, APHIS will use updated diagnostic techniques to determine which birds have actually been infected with END. This should permit APHIS to be more selective when euthanasia is necessary. However, the actual potential effect of the regulations on domestic exotic bird producers is unknown.

#### Summary

APHIS estimates that the rule changes for END will, short of a major END outbreak, have a negligible impact on the daily activities of domestic poultry and egg producers, and on domestic producers and importers of exotic birds. If a major outbreak occurs and an eradication program is initiated, the rule changes will enable APHIS to effectively prevent the interstate spread of END and to eradicate END. Modern diagnostic techniques will enable APHIS to determine which birds have been infected by the END virus. This will likely result in smaller quantities of euthanized birds and poultry in areas quarantined because of END. We consider revisions to the END regulations necessary to ensure that domestic poultry, egg, and exotic bird producers are protected against any potential END outbreak. APHIS considers these regulations adequate to deal effectively with a disease outbreak, while at the same time imposing the minimum possible costs on affected entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have

been prepared for this rule. The assessment provides a basis for the conclusion that the actions required or authorized by this rule will not present a risk of introducing or disseminating disease agents and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C., 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0116.

#### Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

#### List of Subjects

##### 9 CFR Part 53

Animal diseases, Indemnity payments, Livestock, Poultry and poultry products.

##### 9 CFR Part 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine,

Reporting and recordkeeping requirements, Transportation.

##### 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

##### 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

##### 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

##### 9 CFR Part 161

Reporting and recordkeeping requirements, Veterinarians.

Accordingly, we are amending 9 CFR parts 53, 71, 82, 92, 94, and 161 as follows:

### **PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY**

1. The authority citation for part 53 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 53.1 is revised to read as follows:

#### **§ 53.1 Definitions.**

**Administrator.** The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

**Animal and Plant Health Inspection Service.** The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

**Animals.** Livestock, poultry, and all other members of the animal kingdom, including birds whether domesticated or wild, but not including man.

**APHIS employee.** Any individual employed by the Animal and Plant Health Inspection Service who is authorized by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

**Bird.** Any member of the class *aves* other than poultry.

**Department.** The United States Department of Agriculture.

**Disease.** Foot-and-mouth disease, rinderpest, contagious pleuropneumonia, exotic Newcastle disease, highly pathogenic avian

influenza, or any other communicable disease of livestock or poultry that in the opinion of the Secretary constitutes an emergency and threatens the livestock or poultry of the United States.

**Exotic Newcastle Disease (END).** Any velogenic Newcastle disease. Exotic Newcastle disease is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

**Highly pathogenic avian influenza.** (1) Any influenza virus that kills at least 75 percent of eight 4- to 6-week-old susceptible chickens within 10 days following intravenous inoculation with 0.2 ml of a 1:10 dilution of a bacteria-free, infectious allantoic fluid;

(2) Any H5 or H7 virus that does not meet the criteria in paragraph (1) of this definition, but has an amino acid sequence at the hemagglutinin cleavage site that is compatible with highly pathogenic avian influenza viruses; or

(3) Any influenza virus that is not an H5 or H7 subtype and that kills one to five chickens and grows in cell culture in the absence of trypsin.

**Inspector in charge.** An APHIS employee who is designated by the Administrator to take charge of work in connection with the control and eradication of disease.

**Materials.** Parts of barns or other structures, straw, hay, and other feed for animals, farm products or equipment, clothing, and articles stored in or adjacent to barns or other structures.

**Mortgage.** Any mortgage, lien, or other security or beneficial interest held by any person other than the one claiming indemnity.

**Person.** Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

**Pet bird.** Any bird that is kept for personal pleasure and is not for sale.

**Poultry.** Chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl.

**Secretary.** The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has been or may be delegated to act in the Secretary's stead.

**State.** Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

3. In § 53.2, paragraph (b), the words "lethal avian influenza" are removed and the words "highly pathogenic avian influenza" are added in their place, and the words "as referred to in § 82.2(a) of this chapter, and" are removed.

## PART 71—GENERAL PROVISIONS

4. The authority citation for part 71 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

### § 71.3 [Amended]

5. In section 71.3, paragraph (a), the phrase "psittacosis or ornithosis" is removed and "chlamydiosis" is added in its place.

### § 71.7 [Amended]

6. In § 71.7, the heading is revised to read "*Means of conveyance, facilities, premises, and cages and other equipment; methods of cleaning and disinfecting.*"

7. In § 71.7, paragraph (c), the words "and alleys" are removed and the words "alleys, cages, and other equipment" are added in their place.

8. In § 71.10, the section heading and paragraph (a) introductory text are revised to read as follows:

### § 71.10 Permitted disinfectants.

(a) Disinfectants permitted for use on cars, boats, and other vehicles, premises, and cages and other equipment are as follows:

\* \* \* \* \*

## PART 82—[AMENDED]

9. The authority citation for part 82 continues to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134a, 134b, 134f; 7 CFR 2.22, 2.80, and 371.2(d).

10. Part 82 is amended by revising the part heading, removing subpart A, redesignating subpart B as subpart C, and adding new subparts A and B to read as follows:

## PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

### Subpart A—Exotic Newcastle Disease (END)

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### Subpart B—Chlamydiosis in Poultry

82.19 Definitions

82.20 General restrictions.

82.21 Vehicles, cages, coops, containers, troughs, and other equipment used for infected poultry.

82.22 Cleaning and disinfecting premises.

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82.25 Denial and withdrawal of permits and special permits.

### Subpart A—Exotic Newcastle Disease (END)

#### § 82.1 Definitions.

As used in connection with this subpart, the following terms shall have the meaning set forth in this section.

**Administrator.** The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

**Animal and Plant Health Inspection Service.** The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

**Bird.** Any member of the class *aves* other than poultry.

**Dressed carcasses.** Carcasses of birds or poultry that have been eviscerated, with heads and feet removed.

**END.** Any velogenic Newcastle disease. END is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

**Exposed.** At risk of developing END because of association with birds or poultry infected with END, excrement from birds or poultry infected with END, or other material touched by birds or poultry infected with END, or because there is reason to believe that association has occurred with END or vectors of END, as determined by either a Federal veterinarian or a State veterinarian.

**Federal representative.** An individual employed and authorized by the Federal government to perform the tasks required by this subpart.

**Federal veterinarian.** A veterinarian employed and authorized by the Federal government to perform the tasks required by this subpart.

**Hatching eggs.** Eggs in which birds or poultry are allowed to develop.

**Infected.** Affected by the virus or bacterium that causes the specified disease.

**Interstate.** From one State into or through any other State.

**Known to be exposed.** Determined by either a Federal veterinarian or a State veterinarian to be at risk of developing END because of association with birds or poultry infected with END, excrement from birds or poultry infected with END, or other material touched by birds or poultry infected with END, or because there is reason to believe that association has occurred with END or vectors of END, as determined by either a Federal veterinarian or a State veterinarian.

**Known to be infected.** Determined by either a Federal veterinarian or a State veterinarian to be affected by the virus or bacterium that causes the specified disease.

**Litter.** Material that is used to collect and absorb bodily wastes from birds or poultry.

**Moved.** Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

**Official seal.** A serially numbered metal or plastic strip, consisting of a self-locking device on one end and a slot on the other end, that forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

**Person.** Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

**Pet bird.** Any bird that is kept for personal pleasure and is not for sale.

**Poultry.** Chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, and turkeys.

**Recognized slaughtering establishment.** Any slaughtering facility operating under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), or State meat or poultry inspection acts.

**Render.** Reduce, convert, or melt down by heating to a temperature of at least 230 °F so that oil is removed.

**State.** Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

**State animal health official.** The State official responsible for livestock- and poultry-disease control and eradication programs.

**State representative.** An individual employed in animal health work and

authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

**State veterinarian.** A veterinarian employed and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

**Veterinarian in charge.** A Federal veterinarian employed by the Animal and Plant Health Inspection Service and authorized by the Administrator to supervise and manage the animal health work of the Animal and Plant Health Inspection Service in a specified area of the United States.

#### **§ 82.2 Criteria for determining birds or poultry to be infected with, exposed to, or free from END.**

(a) The determination that birds or poultry are infected with END must be made by either a Federal veterinarian or a State veterinarian.<sup>1</sup> They will base that determination on one or more of the following factors: clinical evidence (signs, post-mortem lesions, and history of the occurrence of END); diagnostic tests;<sup>2</sup> or epidemiological evidence (evaluation of clinical evidence and the degree of risk posed by the potential spread of END based on population and exposure factors, including evaluation of whether the birds and poultry have had the opportunity to be in contact with birds or poultry infected with END or with excrement from birds or poultry infected with END, or if the birds and poultry have shared feed or water with birds or poultry infected with END).

(b) The determination that birds or poultry are exposed to END must be made by either a Federal veterinarian or a State veterinarian. They will base that determination on an evaluation of all related circumstances, including: the proximity of the birds or poultry to birds or poultry infected with END, to excrement from birds or poultry infected with END, and to other material touched by birds or poultry infected with END; the number of birds or poultry infected with END to which the birds or poultry were exposed; the species involved; the virulence of the END to which the birds or poultry were

exposed; and the length of time the birds or poultry were in contact with birds or poultry infected with END, and to material touched by birds or poultry infected with END. Birds or poultry determined to be exposed to END will continue to be treated as exposed unless they are subsequently determined to be infected with END or until either a Federal veterinarian or a State veterinarian finds them to be free of END based on one or more of the factors listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 0579-0116)

#### **§ 82.3 Quarantined areas.**

(a) Any area where birds or poultry infected with END are located will be designated as a quarantined area. A quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END. Less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as this subpart.

(b) Any area designated as a quarantined area because of END will remain designated as a quarantined area until all of the requirements of § 82.14 have been met.

(c) The following areas are quarantined because of END: (Currently, no areas are quarantined because of END.)

#### **§ 82.4 General provisions.**

(a) **Prohibitions.** The following articles may not be moved interstate from a quarantined area:

(1) Dead birds and dead poultry, including any parts of the birds or poultry, that are infected with END, or are from a flock of birds or poultry infected with END;

(2) Litter used by or manure generated by birds or poultry, or a flock of birds or poultry, infected with END;

(3) Any eggs from birds or poultry, or a flock of birds or poultry, infected with END;

(4) Hatching eggs from flocks of birds or poultry exposed to END; and

(5) Live birds or live poultry from flocks infected with or exposed to END.

(b) **Restrictions.** The following articles may be moved interstate from a quarantined area only in accordance with this subpart:

(1) Live birds or live poultry not known to be infected with or exposed to END;

<sup>1</sup> The location of Federal veterinarians and State veterinarians may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 41, Riverdale, MD 20737-1231, or by referring to the local telephone book.

<sup>2</sup> A copy of the protocols for END diagnostic tests may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231. The protocols are also found in "Recommended Uniform Diagnostic Procedures," published by the Committee of the American Association of Veterinary Laboratory Diagnosticians.

(2) Dressed carcasses of birds and poultry, and other dead birds and dead poultry, including any parts of the birds or poultry, that are not known to be infected with END;

(3) Litter used by or manure generated by birds or poultry not known to be infected with END;

(4) Eggs, other than hatching eggs, from birds or poultry from flocks not known to be infected with END;

(5) Hatching eggs from birds or poultry not known to be infected with or exposed to END; and

(6) Cages, coops, containers, troughs, vehicles, or other equipment used for birds, poultry, eggs, manure, or litter.

(c) *Exceptions.* This subpart does not apply to the interstate movement of birds, poultry, or other articles from a quarantined area if the interstate movement is made by the United States Department of Agriculture for purposes of research or diagnosis.

#### **§ 82.5 Interstate movement of live birds and live poultry from a quarantined area.**

(a) *Pet birds.* An individual may move his or her pet birds interstate from a quarantined area if the birds are not known to be infected with or exposed to END and:

(1) The birds are accompanied by a permit obtained in accordance with § 82.11;

(2) Epidemiological evidence, as described in § 82.2(a), indicates that the birds are not infected with any communicable disease;

(3) The birds show no clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite) during the 90 days before interstate movement;

(4) The birds have been maintained apart from other birds and poultry in the quarantined area during the 90 days before interstate movement;

(5) The birds have been under the ownership and control of the individual to whom the permit is issued for the 90 days before interstate movement;

(6) The birds are moved interstate by the individual to whom the permit is issued;

(7) The birds are caged while being moved interstate;

(8) The individual to whom the permit is issued maintains ownership and control of the birds and maintains them apart from other birds and poultry from the time they arrive at the place to which the individual is taking them until a Federal representative or State representative<sup>3</sup> examines the birds and

determines that the birds show no clinical signs of END. The examination will not be less than 30 days after the interstate movement;

(9) The individual to whom the permit is issued allows Federal representatives and State representatives to examine the birds at any time until they are declared free of END by either a Federal veterinarian or a State veterinarian;

(10) Within 24 hours of a bird's dying or showing clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite), the individual to whom the permit is issued notifies the veterinarian in charge or the State animal health official<sup>4</sup> in the State to which the birds are moved; and

(11) The individual to whom the permit is issued submits copies of the permit so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds at the destination listed on the permit.

(b) *Other birds and poultry.* Except as provided for pet birds in paragraph (a) of this section, a person may move live birds and live poultry that are not known to be infected with or exposed to END interstate from a quarantined area only if:

(1) The birds and poultry are accompanied by a permit obtained in accordance with § 82.11;

(2) The birds or poultry are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance;

(3) The birds or poultry are moved in a means of conveyance either under official seal or are accompanied by a Federal representative;

(4) Except for emergencies, the birds or poultry are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(1) of this section;

(5) If poultry, the poultry are moved interstate to a recognized slaughtering establishment<sup>5</sup> and are slaughtered within 24 hours of arrival at the recognized slaughtering establishment;

and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231.

<sup>4</sup>The location of the veterinarian in charge or the State animal health official may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231, or by referring to the local telephone book.

<sup>5</sup>A list of recognized slaughtering establishments in any State may be obtained from a Federal representative, the State animal health official, or a State representative.

(6) If birds other than poultry, the birds are moved to a site approved by the Administrator; and

(7) The permit required by paragraph (b)(1) of this section is presented upon arrival at the recognized slaughtering establishment or approved site to a State representative or Federal representative. Copies of the permit must also be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival at the recognized slaughtering establishment.

(Approved by the Office of Management and Budget under control number 0579-0116)

#### **§ 82.6 Interstate movement of dead birds and dead poultry from a quarantined area.**

(a) Except as provided in paragraph (b) of this section for dressed carcasses, dead birds and dead poultry, including any parts of the birds and poultry, that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dead birds and dead poultry are accompanied by a permit obtained in accordance with § 82.11;

(2) The dead birds and dead poultry are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance;

(3) The dead birds and dead poultry are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(4) The dead birds and dead poultry are not unloaded until their arrival at the destination listed on the permit required by paragraph (a)(1) of this section;

(5) The dead birds and dead poultry are moved, without stopping, to the destination listed on the permit required by paragraph (a)(1) of this section, except for normal traffic conditions, such as traffic lights and stop signs;

(6) The dead birds and dead poultry are disposed of, within 24 hours after being loaded for interstate movement, by burial or composting in accordance with the procedures set forth in § 82.14(c)(1) and (c)(2), or by rendering, incineration, or other means approved by the Administrator as being adequate to prevent the dissemination of END; and

(7) Copies of the permit accompanying the dead birds and dead poultry interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dead birds and dead poultry at the

<sup>3</sup>The location of Federal representatives and State representatives may be obtained by writing to Emergency Programs, Veterinary Services, Animal

destination listed on the permit required by paragraph (a)(1) of this section.

(b) Dressed carcasses from birds and poultry that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dressed carcasses are from birds or poultry that were slaughtered in a recognized slaughtering establishment;<sup>6</sup>

(2) The dressed carcasses are accompanied by a permit obtained in accordance with § 82.11;

(3) The dressed carcasses are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(4) The dressed carcasses are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(2) of this section;

(5) The dressed carcasses are moved, without stopping, to the destination listed on the permit required by paragraph (b)(2) of this section, except for normal traffic conditions, such as traffic lights and stop signs; and

(6) Copies of the permit accompanying the dressed carcasses interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dressed carcasses at the destination listed on the permit required by paragraph (b)(2) of this section.

(Approved by the Office of Management and Budget under control number 0579-0116)

#### **§ 82.7 Interstate movement of manure and litter from a quarantined area.**

Manure generated by and litter used by birds or poultry not known to be infected with END may be moved interstate from a quarantined area only if:

(a) The manure and litter is accompanied by a permit obtained in accordance with § 82.11;

(b) The manure and litter has been heated throughout, in the quarantined area, to a temperature of not less than 175 °F (79.4 °C), and then placed either in a previously unused container or in a container that has been cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(c) The declaration or affidavit required by § 82.11(b) lists the location of the poultry or birds that generated the manure or used the litter, and the name and address of the owner of the poultry or birds that generated the manure or used the litter; and

(d) Copies of the permit accompanying the manure and litter interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the manure and litter at the destination listed on the permit.

#### **§ 82.8 Interstate movement of eggs, other than hatching eggs, from a quarantined area.**

(a) Eggs, other than hatching eggs, from birds or poultry from flocks not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The eggs are accompanied by a permit obtained in accordance with § 82.11;

(2) The eggs have been cleaned and sanitized in accordance with 7 CFR part 59;

(3) The eggs are packed either in previously unused flats or cases or in used plastic flats or cases that were cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(4) The eggs are moved to a facility where they are examined to ensure they have been cleaned and sanitized in accordance with paragraph (a)(2) of this section; and

(5) Copies of the permit accompanying the eggs interstate are submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the eggs at the facility.

(b) Any flats or cases intended for reuse after being used to move eggs interstate to a facility under this section must be cleaned and disinfected in accordance with part 71 of this chapter before being moved to a premises where birds or poultry are kept.

#### **§ 82.9 Interstate movement of hatching eggs from a quarantined area.**

Hatching eggs from birds or poultry not known to be infected with or exposed to END may be moved interstate from a quarantined area only if:

(a) The hatching eggs are accompanied by a permit obtained in accordance with § 82.11;

(b) Copies of the permit accompanying the hatching eggs are submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the hatching eggs at the premises described in paragraph (c) of this section; and

(c) The hatching eggs are held in the State of destination at a premises designated jointly by the veterinarian in charge and the State animal health official from the time of arrival until hatch and the birds and poultry hatched from the eggs are held at the designated premises for not less than 30 days following hatch. During this holding period, the eggs and any birds or poultry hatched from the eggs are subject to any inspections, disinfections, and tests as may be required by the Administrator to determine their freedom from END.

#### **§ 82.10 Interstate movement of vehicles, cages, coops, containers, troughs, and other equipment from a quarantined area.**

(a) This section does not apply to cages, coops, or other containers or equipment used by or to move pet birds moved interstate in accordance with § 82.5(a).

(b) Vehicles, cages, coops, containers, troughs, and other equipment that have held or that have otherwise been used in a quarantined area in the handling of birds or poultry or their eggs, or for manure generated by or litter used by the birds or poultry, may be moved interstate from a quarantined area only in accordance with the following conditions:

(1) They are made of hard plastic or metal, and the other conditions of this section are met; or

(2) They are made of a disposable material, such as cardboard, fiber, or waxed cardboard, are previously unused, and are disposed of by incineration without being reused after being moved interstate.

(c) Before moving interstate any vehicles, cages, coops, containers, troughs, or other equipment described in paragraph (b)(1) of this section, and after using these items to move birds, poultry, eggs, manure, or litter interstate from a quarantined area, the vehicles, cages, coops, containers, troughs, and other equipment must be cleaned and disinfected in accordance with paragraphs (c)(1) through (c)(5) of this section:

(1) Clean and disinfect the vehicles, cages, coops, containers, troughs, and other equipment at the place where the birds, poultry, eggs, manure, and litter are unloaded or where the equipment is used, no more than 2 hours after the birds, poultry, eggs, manure, and litter are unloaded or the equipment is used;

(2) Clean the items in accordance with part 71 of this chapter;

(3) Have a Federal representative or State representative<sup>7</sup> inspect the items after they have been cleaned;

<sup>6</sup>See footnote 5 to § 82.5.

<sup>7</sup>See footnote 3 to § 82.5.

(4) Disinfect the items in the presence of a Federal representative or State representative; and

(5) Disinfect the items in accordance with part 71 of this chapter and by using a disinfectant as specified in part 71 of this chapter.

(d) If the place where the cleaning and disinfection would otherwise be required has no facilities for cleaning and disinfecting, the items may be moved to a place where facilities are available for cleaning and disinfecting, provided a Federal representative or State representative has determined that such movement will not cause a risk of the spread of END.

(e) Vehicles, cages, coops, containers, troughs, and other equipment that are moved interstate under this section must be accompanied by a permit obtained in accordance with § 82.11, and copies of the permit accompanying the vehicles, cages, coops, containers, troughs, and other equipment interstate must be submitted so that a copy is received by the State animal health official and the veterinarian in charge<sup>8</sup> for the State of destination within 72 hours of the arrival of the vehicles, cages, coops, containers, troughs, and other equipment at the destination listed on the permit.

(Approved by the Office of Management and Budget under control number 0579-0116)

#### § 82.11 Issuance of permits.

(a) Application for the permits required by this subpart to move interstate from a quarantined area birds, eggs, poultry, or other items requiring a permit under this part must be in writing. The application must be submitted to a Federal representative or State representative and must include the following:

(1) The applicant's name and mailing address;

(2) The name and mailing address of the person who will receive the birds, eggs, poultry, or other items;

(3) The addresses of both the origin and destination of the birds, eggs, poultry, or other items;

(4) The number and types of birds, poultry, eggs, and other items intended for interstate movement; and

(5) The reason for the interstate movement.

(b) In addition to the information required by paragraph (a) of this section, to obtain permits to move birds, poultry, eggs, manure, litter, cages, coops, containers, troughs, vehicles or other equipment interstate from a quarantined area, an applicant for a permit must submit to a Federal representative or

State representative a declaration or affidavit listing the requirements of § 82.5 for live birds or live poultry, § 82.6 for dead birds and dead poultry, § 82.7 for litter or manure, § 82.8 for eggs other than hatching eggs, § 82.9 for hatching eggs, or § 82.10 for cages, coops, containers, troughs, vehicles, and other equipment, and stating that the applicant will move the items interstate only if all of the listed requirements are met.

(Approved by the Office of Management and Budget under control number 0579-0116)

#### § 82.12 Other interstate movements and special permits.

(a) A special permit is required for the interstate movement of birds, poultry, or other items whose movement is restricted under this subpart, from a quarantined area in a manner or to a destination other than is specifically prescribed by this subpart, under special conditions determined by the Administrator to be necessary to prevent the dissemination of END. A special permit is required for the disposal of dead birds or dead poultry that are infected with END, or dead birds or dead poultry from flocks infected with END, or manure generated by or eggs from birds or poultry infected with END, in a manner other than is specifically prescribed in this subpart, and for cleaning and disinfection carried out in a manner other than is specifically prescribed in this subpart, under special conditions determined by the Administrator to be necessary to prevent the dissemination of END. To apply for a special permit, contact the veterinarian in charge<sup>9</sup> for the State in which the birds, poultry, or other items are located. The Administrator may, at his or her discretion, issue special permits if he or she determines that the activity authorized will not result in the interstate dissemination of END.

(b) The special permit will list the name and address of the person to whom the special permit is issued, and the special conditions under which the interstate movement, disposal, or cleaning and disinfection may be carried out.

(1) For an interstate movement, the special permit will also include the following:

(i) The name and mailing address of the person who will receive the birds, poultry, or other items;

(ii) The addresses of both the origin and destination of the birds, poultry, or other items;

(iii) The number and type of birds, poultry, or other items to be moved interstate; and

(iv) The reason for the interstate movement.

(2) For destruction or cleaning and disinfection, the special permit will also include the following:

(i) The address of the place where the dead birds, dead poultry, manure, or eggs are located; and

(ii) The number and type of birds, poultry, or other items involved.

(c) For an interstate movement, a copy of the special permit must accompany the items moved, and copies must be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds, poultry, or other items at the destination listed on the special permit. (Approved by the Office of Management and Budget under control number 0579-0116)

#### § 82.13 Denial and withdrawal of permits and special permits.

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed to prevent the dissemination of END, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal

<sup>8</sup>See footnote 4 of § 82.5.

<sup>9</sup>See footnote 4 to § 82.5.

must be in writing<sup>10</sup> and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits of the validity of the denial or withdrawal in accordance with rules of practice adopted for the proceeding.

(Approved by the Office of Management and Budget under control number 0579-0116)

#### § 82.14 Removal of quarantine.

An area will be removed from quarantine only when all of the following requirements have been met:

(a) All birds and poultry exposed to END in the quarantined area have been found to be free of END;

(b) All birds and poultry infected with END in the quarantined area have been euthanized;

(c) All birds and poultry, including any parts of the birds and poultry, euthanized in accordance with paragraph (b) of this section, and all birds and poultry in the quarantined area, including any parts of the birds and poultry, that died from any cause other than slaughter, have been buried, reduced to ashes by incineration, rendered, or reduced to dust by composting;

(1) If the birds and poultry are buried, all birds and poultry infected with END must be buried in the quarantined area. The birds and poultry must be buried in a location that meets all United States Environmental Protection Agency, State, and local requirements for landfills. They must be buried at least 6 feet deep and be covered at the time of burial with soil; and

(2) If the birds and poultry are composted, all birds and poultry infected with END must be composted in the quarantined area. The birds and poultry must be composted according to the following instructions:

(i) Place a 1-foot layer of litter and manure in a free-standing compost bin, unless the compost pile will be covered in accordance with paragraph (c)(2)(ii) of this section. Add a 6-inch layer of straw, peanut hulls, or wood chips. Add a layer of dead birds or dead

poultry, leaving 6 inches between the carcasses and the bin walls. Add water sparingly and cover with 6 inches of a dry mixture of litter and manure. Repeat the layering process two more times and cap with a double layer of dry manure cake. After the bin is capped off and covered, monitor the temperature in the compost pile daily, using a 36-inch probe-type thermometer. The temperature of the compost pile must reach at least 140 °F. After 30 days from the date the compost pile is created, turn over to aerate the entire mixture. Allow mixture to reach at least 140 °F once again. After completion of the second cycle, the mixture must remain covered with any material that prevents penetration of air and moisture until spread or otherwise utilized. The composted material may not be spread or otherwise utilized until at least 30 days following completion of the second heating cycle.

(ii) Composting of birds and poultry may be accomplished outside of covered bins by following the layering and temperature requirements set forth in paragraph (c)(2)(i) of this section, then covering the compost pile with tarpaulins or 6-mm polyethylene sheets anchored with tires or straw bales. The mixture must be kept moist. The final product may not be spread or otherwise utilized until at least 30 days following completion of the second heating cycle.

(iii) Composting of birds and poultry must be carried out at least 50 yards from any building or pen where poultry and birds are housed and be inaccessible to birds and poultry. Composted material may not be commingled with, or otherwise be brought into contact with, non-composted manure cake;

(d) All eggs produced by birds or poultry infected with or exposed to END in the quarantined area have been buried, reduced to ashes by incineration, or rendered. If the eggs are buried, the eggs must be buried in the quarantined area in a location that meets all United States Environmental Protection Agency requirements and all State and local requirements for landfills. The eggs must be buried at least 6 feet deep and be covered at the time of burial with soil;

(e) All manure generated by or litter used by birds or poultry infected with or exposed to END in the quarantined area has been reduced to ashes by incineration, or has been buried, composted, or spread on a field and turned under, as follows:

(1) *Burial.* If the manure or litter is buried, the manure and litter must be buried at least 6 feet deep and covered at the time of burial with soil. The

manure and litter must be buried in the quarantined area in a location that meets all United States Environmental Protection Agency and State and local requirements for landfills;

(2) *Composting.* If the manure and litter is composted, the manure and litter must be composted in the quarantined area according to the following method: Place the manure and litter in rows 3 to 5 feet high and 5 to 10 feet at the base. The area where the manure, litter, and other material used in composting are placed must be such that there is no runoff from the composted material out of the area, no saturation into the ground, and no moisture, except for that required by this paragraph, onto the composted material from above. The composting area must be at least 50 yards from any building or pen where birds or poultry are housed and be inaccessible to birds and poultry. The manure and litter must be mixed so as to attain a carbon to nitrogen ratio of approximately 30:1, a moisture content of between 40 to 50 percent, and a supply of oxygen to the composted material. If a carbon source other than manure or litter is needed, wood chips, straw, or peanut hulls may be used. The manure and litter must be covered with tarpaulin or 6-mm polyethylene sheets, be anchored with tires or straw bales, and be mixed to ensure adequate ventilation every 10 to 15 days. The composted material must rise to a temperature of 140 °F, as determined by use of a 36-inch probe-type thermometer. The composted material may not be spread or otherwise utilized for at least 30 days from the time the 140 °F temperature is reached; and

(3) *Spreading and turning under.* Spreading and turning under of manure or litter may be used as a means of disposal only if carried out under the direct supervision of a Federal representative or a State representative. If the manure or litter is spread on a field and turned under, the field must be in the quarantined area, at least 50 yards away from any building or pen where poultry or birds are housed, and inaccessible to birds and poultry. The manure or litter must be turned under within 24 hours of being spread on the field, and the field must be left undisturbed for at least 30 days;

(f) All vehicles with which the birds or poultry infected with or exposed to END or their excrement or litter have had physical contact have been cleaned and disinfected in accordance with part 71 of this chapter. The vehicles have been inspected after cleaning, and before disinfection, by a Federal representative or State representative,

<sup>10</sup> Written appeals should be sent to the Administrator, c/o Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737-1231.

and then have been disinfected in the presence of a Federal representative or State representative with a disinfectant listed in part 71 of this chapter;

(g) All cages, coops, containers, troughs, and other equipment used for birds or poultry infected with or exposed to END, or their excrement or litter have been reduced to ashes by incineration, or have been cleaned and disinfected in accordance with part 71 of this chapter. The items must be inspected after cleaning, and before disinfection, by a Federal representative or State representative, and then must be disinfected in the presence of a Federal representative or State representative, with a disinfectant listed in part 71 of this chapter; and

(h) The premises where birds or poultry infected with or exposed to END were located have been cleaned and disinfected in accordance with part 71 of this chapter. The premises have been inspected after cleaning, and before disinfection, by a Federal representative or State representative, and then have been disinfected in the presence of a Federal representative or State representative with a disinfectant listed in part 71 of this chapter.

(Approved by the Office of Management and Budget under control number 0579-0116)

#### **§ 82.15 Replacement birds and poultry.**

Birds and poultry that have been destroyed because of a quarantine for END may not be replaced by birds or poultry moved interstate into the quarantined area until the Administrator decides that END has been eradicated and that replacement birds or poultry will not become infected with END.

#### **Subpart B—Chlamydiosis in Poultry**

##### **§ 82.19 Definitions.**

As used in connection with this subpart, the following terms shall have the meaning set forth in this section.

*Accredited veterinarian.* A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

*Animal and Plant Health Inspection Service.* The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

*Bird.* Any member of the class *aves* other than poultry.

*Chlamydiosis.* A contagious bacterial disease of birds and poultry,

characterized by respiratory and systemic infection. The disease is also known as psittacosis in psittacine birds and as ornithosis in poultry.

*Federal representative.* An individual employed and authorized by the Federal government to perform the tasks required by this subpart.

*Federal veterinarian.* A veterinarian employed and authorized by the Federal government to perform the tasks required by this subpart.

*Infected.* Affected by the virus or bacterium that causes the specified disease.

*Interstate.* From one State into or through any other State.

*Moved.* Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

*Person.* Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

*Poultry.* Chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, and turkeys.

*State.* Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

*State animal health official.* The State official responsible for livestock- and poultry-disease control and eradication programs.

*State representative.* An individual employed in animal health work and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

*Veterinarian in charge.* A Federal veterinarian employed by the Animal and Plant Health Inspection Service and authorized by the Administrator to supervise and manage the animal health work of the Animal and Plant Health Inspection Service in a specified area of the United States.

##### **§ 82.20 General restrictions.**

The following items may not be moved interstate:

- (a) Live poultry infected with chlamydiosis;
- (b) Dead poultry that were infected with chlamydiosis when they died, and parts of dead poultry that were infected with chlamydiosis when they died; and
- (c) Offal from poultry infected with chlamydiosis.

##### **§ 82.21 Vehicles, cages, coops, containers, troughs, and other equipment used for infected poultry.**

- (a) Before moving vehicles, cages, coops, containers, troughs, and other

equipment interstate that have held or have otherwise been used in the handling of poultry infected with chlamydiosis, and after using these items to move poultry infected with chlamydiosis interstate, the vehicles, cages, coops, containers, troughs, and other equipment must be cleaned and disinfected in accordance with paragraphs (a)(1) through (a)(5) of this section:

- (1) Clean and disinfect the vehicles, cages, coops, containers, troughs, and other equipment at the place where the poultry are unloaded or where the equipment is used, no more than 2 hours after the poultry infected with chlamydiosis are unloaded or the equipment is used;

- (2) Clean the items in accordance with part 71 of this chapter;

- (3) Have a Federal representative, State representative,<sup>1</sup> or an accredited veterinarian, inspect the items after they have been cleaned;

- (4) Disinfect the items in the presence of a Federal representative, State representative, or an accredited veterinarian; and

- (5) Disinfect the items in accordance with part 71 of this chapter and by using a disinfectant as specified in part 71 of this chapter.

- (b) If the place where the cleaning and disinfection would otherwise be required has no facilities for cleaning and disinfecting, the items may be moved to a place where facilities are available for cleaning and disinfecting, provided a Federal representative or State representative has determined that such movement will not cause a risk of the spread of chlamydiosis.

- (c) Vehicles, cages, coops, containers, troughs, and other equipment moved interstate under this section must be accompanied by a permit obtained in accordance with § 82.23, and copies of the permit accompanying the vehicles, cages, coops, containers, troughs, and other equipment interstate must be submitted so that a copy is received by both the State animal health official and the veterinarian in charge<sup>2</sup> for the State of destination within 72 hours of the arrival of the vehicles, cages, coops, containers, troughs, and other equipment at the destination listed on the permit.

(Approved by the Office of Management and Budget under control numbers 0579-0116 and 0579-0032)

<sup>1</sup> See footnote 3 to § 82.5.

<sup>2</sup> See footnote 4 to § 82.5.

**§ 82.22 Cleaning and disinfecting premises.**

Premises that contained poultry that were infected with chlamydia must be cleaned and disinfected in accordance with this section before any poultry are moved interstate onto the premises.

(a) The premises must be cleaned in accordance with part 71 of this chapter;

(b) After being cleaned, the premises must be inspected by a Federal representative, State representative, or an accredited veterinarian; and

(c) After being inspected, the premises must be disinfected in the presence of a Federal representative, State representative, or an accredited veterinarian, in accordance with part 71 of this chapter, using a disinfectant listed in part 71 of this chapter.

(Approved by the Office of Management and Budget under control numbers 0579-0116 and 0579-0032)

**§ 82.23 Issuance of permits.**

(a) Application for the permit required by this subpart to move vehicles, cages, coops, containers, troughs, or other equipment interstate must be in writing, and must be submitted to a Federal representative or State representative. The application must include the following:

(1) The applicant's name and mailing address;

(2) The name and mailing address of the person who will receive the items;

(3) The addresses of both the origin and destination of the items;

(4) The number and types of items intended for interstate movement; and

(5) The reason for the interstate movement.

(b) *Exceptions.* This subpart does not apply to the interstate movement of poultry, vehicles, cages, coops, containers, troughs, or other equipment or material if the interstate movement is made by the United States Department of Agriculture for the purposes of research or diagnosis.

(Approved by the Office of Management and Budget under control number 0579-0116)

**§ 82.24 Other interstate movements and special permits.**

(a) A special permit is required for the interstate movement of items whose movement interstate is restricted under this subpart in a manner or to a destination other than is specifically prescribed by this subpart. A special permit is required for the disinfection of vehicles, premises, cages, coops, containers, troughs, and other equipment by a method other than is specifically prescribed by this subpart. To apply for a special permit, contact the veterinarian in charge for the State

in which the items are located. The Administrator may, at his or her discretion, issue special permits if he or she determines the activity authorized will not increase the risk of spreading chlamydia interstate.

(b) The special permit will list the name and address of the person to whom the special permit is issued, and the special conditions under which the interstate movement, or cleaning and disinfection, may be carried out.

(1) For an interstate movement, the special permit will also include the following:

(i) The name and mailing address of the person who will receive the items;

(ii) The addresses of both the origin and destination of the items;

(iii) The number and type of items to be moved interstate; and

(iv) The reason for the interstate movement.

(2) For cleaning and disinfection, the special permit will also include the following:

(i) The address of the place where the items are located; and

(ii) The number and type of items involved.

(c) For an interstate movement, a copy of the special permit must accompany the items moved, and copies must be submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the items at the destination listed on the special permit.

(Approved by the Office of Management and Budget under control number 0579-0116)

**§ 82.25 Denial and withdrawal of permits and special permits.**

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed to prevent the spread of chlamydia, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the

permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal must be in writing<sup>3</sup> and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits or validity of the denial or withdrawal in accordance with rules of practice adopted for the proceeding.

(Approved by the Office of Management and Budget under control number 0579-0116)

**PART 92—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS**

11. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

**PART 92—AMENDED**

12. The heading for part 92 is revised to read as set forth above:

**§ 92.101 [Amended]**

13. Section 92.101 is amended as follows:

a. In paragraph (c)(3)(i), the term "ornithosis" is removed and the term "chlamydia" is added in its place.

b. In paragraph (g)(2), the words "velogenic viscerotropic Newcastle disease (VVND)" are removed and the words "exotic Newcastle disease (END)" are added in their place;

c. The term "VVND" is removed and the term "END" is added in its place in the following places:

i. Footnote 7 to paragraph (g)(2);

<sup>3</sup> See footnote 10 to § 82.13.

- ii. Paragraph (g)(3), each time it appears; and
- iii. Paragraph (g)(4).

**§ 92.104 [Amended]**

14. Section 92.104 is amended by removing the word "ornithosis" and adding the word "chlamydiosis" in its place, in the following places:

- (a) Paragraph (b)(2);
- (b) Paragraph (b)(3);
- (c) Paragraph (b)(3);
- (d) Paragraph (c)(4);
- (e) Paragraph (d)(3); and
- (f) Paragraph (d)(4).

**§ 92.106 [Amended]**

15. In § 92.106, paragraph (c)(5)(iii), Cooperative and Trust Fund Agreement Between \_\_\_\_\_ (Name of Reporter) and the United States Department of Agriculture, Animal and Plant Health Inspection Service, is amended as follows:

- a. In paragraph (A)(17), the words "velogenic viscerotropic Newcastle disease" are removed and the words "exotic Newcastle disease" are added in their place; and
- b. The term "VVND" is removed and the term "END" is added in its place in the following places:
  - i. Paragraph (B)(4); and
  - ii. Paragraph (B)(5).

**§ 92.209 [Amended]**

16. In § 92.209, paragraph (a)(2) is redesignated as paragraph (b) and is amended by removing the words "viscerotropic velogenic Newcastle disease" and adding in their place the words "exotic Newcastle disease", and the paragraph designative (1) is removed in paragraph (a).

**PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS.**

17. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.22, 2.80, and 371.2(d).

**PART 94—AMENDED**

18. The heading for part 94 is revised to read as set forth above.

19. In § 94.0, the definition of *Exotic Newcastle disease (VVND)* is removed and a definition of *Exotic Newcastle disease (END)* is added, in alphabetical order, to read as follows:

**§ 94.0 Definitions.**

\* \* \* \* \*

*Exotic Newcastle disease (END)*. Any velogenic Newcastle disease. Exotic Newcastle disease is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

\* \* \* \* \*

**§ 94.6 [Amended]**

20. Section 94.6 is amended as follows:

- a. The term "VVND" is removed and the term "END" is added in its place in the following places:
  - i. The heading;
  - ii. Paragraph (a) introductory text;
  - iii. Paragraph (a)(1);
  - iv. Paragraph (a)(2);
  - v. Paragraph (c) introductory text, each time it appears;
  - vi. Paragraph (d) introductory text, each time it appears;
  - vii. Paragraph (d)(1)(ix) introductory text;
  - viii. Paragraph (d)(1)(ix)(A);
  - ix. Paragraph (d)(1)(ix)(B);
  - x. Paragraph (d)(1)(ix)(C) introductory text;
  - xi. Paragraph (d)(1)(ix)(C)(1);
  - xii. Paragraph (d)(1)(ix)(C)(2), each time it appears;
  - xiii. Paragraph (d)(2);
  - xiv. Paragraph (d)(3), both times it appears; and
  - xv. Paragraph (d)(4), both times it appears.

b. The term "viscerotropic velogenic Newcastle disease" is removed and the term "END" is added in its place in the following places:

- i. Paragraph (c)(2); and
- ii. Paragraph (c)(5).

**PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION**

21. The authority citation for part 161 continues to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.22, 2.80, and 371.2(d).

**§ 161.2 [Amended]**

22. In § 161.2, paragraph (d)(6) is amended by removing the words "psittacosis or ornithosis, and velogenic viscerotropic Newcastle disease" and adding the words "chlamydiosis and exotic Newcastle disease" in their place.

Done in Washington, DC, this 29th day of October 1996.

A. Strating,  
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–28060 Filed 11–4–96; 8:45 am]

BILLING CODE 3410–34–P

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 200**

[Release No. 34–37893]

**Delegation of Authority to the General Counsel**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission is amending its rules to delegate authority to the General Counsel to refer matters and information concerning possible professional misconduct to state bar associations and other state professional boards or societies.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Barbara B. Hannigan, Ethics Counsel, at 942–0970.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission ("Commission") today announced amendments to its rules governing delegation of authority to the General Counsel.

The amendment to Rule 30–14<sup>1</sup> authorizes the General Counsel to refer matters and information concerning possible professional misconduct to state bar associations and other state professional boards or societies.

Notwithstanding this delegation of authority, in instances where a referral of possible professional misconduct presents any unusual or noteworthy issues, the delegation would not be exercised and the matter would be submitted to the Commission.

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedure Act,<sup>2</sup> that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date is also unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

<sup>1</sup> 17 CFR 200.30–14.

<sup>2</sup> 5 U.S.C. 553(b)(3)(A).

## PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d-1, 78d-2, 78w, 78ll(d), 79t, 77sss, 80a-37, 80b-11, unless otherwise noted.

\* \* \* \* \*

2. Section 200.30-14 is amended by adding paragraph (k) to read as follows:

### § 200.30-14 Delegation of authority to the General Counsel.

\* \* \* \* \*

(k) To refer matters and information concerning possible professional misconduct to state bar associations and other state professional boards or societies.

Dated: October 30, 1996.

By the Commission.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-28386 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 178

[Docket No. 93F-0101]

#### Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Technical Amendment

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to correct an error in the Chemical Abstracts Service (CAS) registry number for a component of a food additive. This document corrects that error.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** John R. Bryce, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3023.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of August 21, 1995 (60 FR 43370), the agency amended the food additive regulations to provide for the safe use of monomethyltin/dimethyltin isooctylmercaptoacetates as a stabilizer in rigid polyvinyl chloride and rigid vinyl chloride copolymers for use in contact with food. The CAS registry

number for dimethyltin bis(2-ethylhexylmercaptoacetate) was incorrectly published as "(CAS Reg. No. 57583-35-43)" instead of "(CAS Reg. No. 57583-35-4)". Accordingly, the agency is amending 21 CFR 178.2010 to correct the error.

Publication of this document constitutes final action on this change under the Administrative Procedure Act (5 U.S.C. 553). Notice and public comment are unnecessary because FDA is merely correcting a nonsubstantive error.

#### List of Subjects in 21 CFR Part 178

Food additives, Food packaging.  
Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

### PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

#### § 178.2010 [Amended]

2. Section 178.2010 *Antioxidants and/or stabilizers for polymers* is amended in the table in paragraph (b) under the heading "Substances" in the entry for "Dimethyltin/monomethyltin isooctylmercaptoacetates" by removing "CAS Reg. No. 57583-35-43" and adding in its place "CAS Reg. No. 57583-35-4".

Dated: October 16, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96-28290 Filed 11-4-96; 8:45 am]

BILLING CODE 4160-01-F

### 21 CFR Parts 520 and 556

#### Animal Drugs, Feeds, and Related Products; Enrofloxacin Oral Solution

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Bayer Corp. The NADA provides for the use of drinking water medicated with

enrofloxacin for the control of mortality associated with certain bacteria in chickens and turkeys.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** George K. Haibel, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1644.

**SUPPLEMENTARY INFORMATION:** Bayer Corp., Agriculture Division, Animal Health, P.O. Box 390, Shawnee Mission, KS 66201, filed NADA 140-828 that covers Baytril® (enrofloxacin) 3.23% Concentrate Antimicrobial Solution. The concentrate is added to drinking water to produce a final concentration of 25 to 50 parts per million. The medicated drinking water is used in chickens for the control of mortality associated with *Escherichia coli* susceptible to enrofloxacin and in turkeys for the control of mortality associated with *E. coli* and *Pasteurella multocida* (fowl cholera) susceptible to enrofloxacin. The NADA is approved as of October 4, 1996, and the regulations are amended by adding new § 520.813 to reflect the approval. The regulations are also amended to provide for a tolerance for enrofloxacin residues in chickens and turkeys in new § 556.228. The drug product is available on a prescription basis. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information (FOI) provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application (FOI summary) may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FOI summary is also electronically available on the Center for Veterinary Medicine's home page on the World Wide Web (<http://www.cvm.fda.gov/>). The summaries are located in the section entitled, "FDA CVM Documents and Databases—Information and Resources Library."

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning October 4, 1996, because the NADA contains reports of new clinical or field investigations and new human food safety studies (other than bioequivalence or residue studies) essential to the approval of the

application and conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects

#### 21 CFR Part 520

Animal drugs.

#### 21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 556 are amended as follows:

### PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.813 is added to read as follows:

#### § 520.813 Enrofloxacin oral solution.

(a) *Specifications.* Each milliliter of concentrate solution contains 32.3 milligrams of enrofloxacin.

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.228 of this chapter.

(d) *Conditions of use.* It is used in drinking water as follows:

(1) *Chickens and turkeys*—(i) *Amount.* 25 to 50 parts per million of enrofloxacin in drinking water.

(ii) *Indications.* Chickens: Control of mortality associated with *Escherichia coli* susceptible to enrofloxacin. Turkeys: Control of mortality associated with *E. coli* and *Pasteurella multocida* (fowl cholera) susceptible to enrofloxacin.

(iii) *Limitations.* Do not use in laying hens producing eggs for human consumption. Administer medicated water continuously as sole source of drinking water for 3 to 7 days. Prepare fresh stock solution daily. Effects on the reproductive function of turkeys have not been determined. Treated animals must not be slaughtered for food within

2 days of the last treatment. Individuals with a history of hypersensitivity to quinolones should avoid exposure to this product. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

### PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

4. New § 556.228 is added to subpart B to read as follows:

#### § 556.228 Enrofloxacin.

A tolerance of 0.3 part per million is established for residues of enrofloxacin (marker residue) in muscle (target tissue) of chickens and turkeys.

Dated: October 28, 1996.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 96-28291 Filed 11-4-96; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[DEA-152P]

#### Schedules of Controlled Substances: Placement of Remifentanyl Into Schedule II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

**SUMMARY:** With the issuance of this final rule, the Acting Deputy Administrator of the Drug Enforcement Administration (DEA) places the narcotic drug, remifentanyl and salts thereof, into Schedule II of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). This rule imposes the regulatory controls and criminal sanctions of a Schedule II narcotic substance under the CSA on the manufacture, distribution, dispensing, importation, and exportation of remifentanyl and salts thereof. Remifentanyl hydrochloride was recently approved by the Food and Drug Administration (FDA) for marketing as an intravenous analgesic agent.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug

Enforcement Administration, Washington, DC 20537, Telephone: 202-307-7183.

#### SUPPLEMENTARY INFORMATION:

Remifentanyl is a narcotic drug pharmacologically similar to, but shorter acting than, fentanyl, alfentanil and sufentanil. Remifentanyl hydrochloride will be marketed under the trade name of ULTIVA as an intravenous analgesic agent for use during the induction and maintenance of general anesthesia and monitored anesthesia care. The Assistant Secretary for Health, acting on behalf of the Secretary of the Department of Health and Human Services (DHHS), by letter dated August 23, 1996, recommended to the Deputy Administrator of the DEA that remifentanyl, and its salts, be placed into Schedule II of the CSA. The Deputy Administrator of the DEA, in a September 16, 1996, Federal Register notice (61 FR 48655) proposed placing remifentanyl, and salts thereof, into Schedule II of the CSA. Interested parties were given until October 16, 1996, to submit comments, objections or requests for a hearing regarding the proposal. None were received.

Based on the scientific and medical evaluation and scheduling recommendation contained in the August 23, 1996, letter from the Assistant Secretary for Health, DHHS, the Acting Deputy Administrator of the DEA, pursuant to the provisions of 21 U.S.C. 811 (a) and (b) and 812(b), finds that:

(1) Remifentanyl has a high potential for abuse;

(2) Remifentanyl has a currently accepted medical use in treatment in the United States; and

(3) Abuse of remifentanyl may lead to severe psychological or physical dependence.

The above findings are consistent with the placement of remifentanyl into Schedule II of the CSA. The Acting Deputy Administrator further finds that remifentanyl is an opiate as defined in 21 U.S.C. 802(18) since it has an addiction-forming and addiction-sustaining liability similar to morphine. Consequently, remifentanyl is a narcotic since the definition of narcotics, as stated in 21 U.S.C. 802(17)(A), includes: "Opium, opiates, derivatives of opium and opiates."

In order to make a remifentanyl pharmaceutical product available for medical use as soon as possible, the Schedule II control of remifentanyl will be effective November 5, 1996. In the event that this poses special hardships on any registrant, the DEA will entertain any justified request of an extension of

time. The applicable regulations are as follows:

1. *Registration.* Any person who manufactures, distributes dispenses, imports or exports remifentanyl or who engages in research or conducts instructional activities with remifentanyl, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Remifentanyl must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72 (a), (c), and (d), 1301.73, 1301.74, 1301.75 (b) and (c) and 1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of, remifentanyl which is distributed on and after November 5, 1996 shall comply with the requirements of §§ 1302.03–1302.05 and 1302.07–1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas.* Quotas for remifentanyl are established pursuant to Part 1303 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Registrants possessing remifentanyl are required to take inventories pursuant to §§ 1304.04 and 1304.11–1304.19 of Title 21 of the Code of Federal Regulations.

6. *Records.* All registrants must keep records pursuant to §§ 1304.04 and 1304.21–1304.29 of Title 21 of the Code of Federal Regulations.

7. *Reports.* All registrants are required to file reports pursuant to §§ 1304.34–1304.37 of Title 21 of the Code of Federal Regulations.

8. *Order Forms.* Each distribution of remifentanyl requires the use of an order form pursuant to Part 1305 of Title 21 of the Code of Federal Regulations.

9. *Prescriptions.* As remifentanyl has been approved by the FDA for use in medical treatment, the drug may be dispensed by prescription. Prescriptions for remifentanyl are to be issued pursuant to §§ 1306.01–1306.07 and 1306.11–1306.15 of Title 21 of the Code of Federal Regulations.

10. *Importation and Exportation.* All importation and exportation of remifentanyl shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

11. *Criminal Liability.* Any activity with remifentanyl not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act shall be unlawful.

In accordance with the provisions of the CSA [21 U.S.C. 811(a)], this order to place remifentanyl into Schedule II of the CSA is a formal rulemaking “on the

record after opportunity for a hearing.” Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, Section 3(d)(1).

The Acting Deputy Administrator, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small-business entities. Remifentanyl is a new drug in the United States; recent approval of the product and its labeling by the FDA will allow it to be marketed once it is placed into Schedule II of the CSA. Remifentanyl, a potent opioid drug, can produce drug dependence of the morphine type. This drug is likely to be diverted and abused if access to it is not closely monitored. The labeled indication for use of remifentanyl is to provide analgesia during the induction and maintenance of general anesthesia. It is to be administered by trained professionals in monitored anesthesia care settings. Schedule II narcotic control will provide the necessary drug monitoring. Small-business entities which are likely to handle this drug maintain a Schedule II narcotic registration with the DEA. This rule will allow these entities to have access to a new pharmaceutical product.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by Section 201(a) of the CSA [21 U.S.C. 811(a)], and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Acting Deputy Administrator hereby orders that 21 CFR part 1308 be amended as follows:

## PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.12 is amended by redesignating the existing paragraph (c)(26) as (c)(27) and adding a new paragraph (c)(26) to read as follows:

### § 1308.12 Schedule II.

\* \* \* \* \*

(c) \* \* \*

(26) Remifentanyl .....9739

\* \* \* \* \*

Dated: October 26, 1996.

James S. Milford, Jr.,

Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 96-28294 Filed 11-4-96; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF STATE

### 22 CFR Part 121

[Public Notice 2465]

### Removal of Commercial Communications Satellites and Hot Section Technology From State's USML for Transfer to Commerce's CCL

AGENCY: Department of State.

ACTION: Final rule.

**SUMMARY:** This rule amends the International Traffic in Arms Regulations (ITAR) by removing from the U.S. Munitions List (USML), for transfer to the Department of Commerce's Commerce Control List, hot-section technologies associated with commercial aircraft engines and commercial communications satellites.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** William Lowell, Director, Office of Defense Trade Controls, Department of State, Telephone (703) 812-2567 or FAX (703) 875-6647 ATTN: Regulatory Change, Commercial Communications Satellites and Commercial Hot Section Technologies.

**SUPPLEMENTARY INFORMATION:** On March 14, 1996, the Administration announced a decision concerning commercial aircraft engine hot section technologies and commercial communications satellites. The decision has several key features. First, commercial aircraft engine hot section technologies will be controlled on the Commerce Control List (CCL) of dual-use items that are licensed by Commerce. Commercial

communications satellites will be controlled on the dual-use list, as well, even if they include individual munitions list components or technologies; in all other cases, munitions list components or technologies, themselves, will continue to be controlled on the U.S. Munitions List, subject to State Department licensing. Second, new control procedures and regulations have been developed for the Commerce control list that will provide for strong national security and foreign policy controls to all destinations and end users worldwide for these items. Enhanced Interagency review of CCL licenses for these items has been established. This decision does not result in the decontrol of any of these items. The Administration's decision only serves to provide clarification from which agency exporters must obtain licenses for exports of commercial aircraft engine hot section technology and commercial communications satellites by removing these items from the U.S. Munitions List for transfer to the Commerce Control List.

In carrying out this directive, Categories VIII, XIII and XV of the U.S. Munitions List are amended.

This amendment involves a foreign affairs function of the United States. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. It is also not subject to 5 U.S.C. 553 and 554, and does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory Change, Commercial Communications Satellites and Commercial Hot Section Technologies, Room 200, SA-6, Washington, D.C. 2052-0602.

#### List of Subjects in 22 CFR Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter 1, subchapter M, is amended as follows:

### PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Sec. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR 1977 Comp. P. 79; 22 U.S.C. 2658.

2. In § 121.1 Category VIII is amended by revising paragraphs (f) and (i); Category XIII is amended by adding

immediately before the Note, a new paragraph (b)(1)(x); and Category XV is amended by revising paragraphs (a), (c), (e) and (f) and by adding a paragraph (g) to read as follows:

#### § 121.1 General. The United States Munitions List.

##### Category VIII—Aircraft and Associated Equipment

\* \* \* \* \*

(f) Developmental aircraft, engines, and components thereof specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, excluding such aircraft, engines, and components subject to the jurisdiction of the Department of Commerce.

Note: Developmental aircraft, engines, and components thereof, having no commercial application at the time of this amendment and which have been specifically designed for military uses or purposes, or developed principally with U.S. Department of Defense funding, will be considered eligible for a CCL license when actually applied to a commercial aircraft or commercial aircraft engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license application from Commerce in respect of a specific export or, in the case of use for broad categories of aircraft, engines, or components, a commodity jurisdiction from State.

(g) \* \* \*

(h) \* \* \*

(i) Technical data (as defined in § 120.10) and defense services (as defined in § 120.9) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category (see § 125.4 for exemptions), except for hot section technical data associated with commercial aircraft engines. Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

##### Category XIII—Auxiliary Military Equipment

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(x) Tracking, telemetry and control (TT&C) encryption/decryption when embedded in a commercial communications satellite identified in ECCN 9A004a of the Export Administration Regulations; embedded means that the device or system cannot feasibly be removed from the satellite

and that it cannot be used for other purposes.

\* \* \* \* \*

##### Category XV—Spacecraft Systems and Associated Equipment

\* (a) Spacecraft, including satellites, specifically designed or modified for military use.

(b) \* \* \*

\* (c) Military communications satellites or multi-mission satellites (including commercial communications satellites having additional, non-communication mission(s) or payload(s) controlled under this subchapter but not including ground stations and their associated equipment and technical data not enumerated elsewhere in § 121.1 of this subchapter; for controls on such ground stations see the Commerce Control List).

(d) \* \* \*

(e) Systems, components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed, modified or configured for the articles in paragraphs (a) through (d) of this category, except as provided in paragraph (c).

(f) The following individual systems, components or parts (except when included in a commercial communications satellite licensed under ECCN 9A004a of the Export Administration Regulations):

(1) Anti-jam systems with the ability to respond to incoming interference by adaptively reducing antenna gain (nulling) in the direction of the interference.

(2) Antennas:

(i) With aperture (overall dimension of the radiating portions of the antenna) greater than 30 feet; or

(ii) With all sidelobes less than or equal to -35dB, relative to the peak of the main beam; or

(iii) Designed, modified, or configured to provide coverage area on the surface of the earth less than 200 nautical miles in diameter, where "coverage area" is defined as that area on the surface of the earth that is illuminated by the main beam width of the antenna (which is the angular distance between half power points of the beam).

(3) Intersatellite data relay links that do not involve a ground relay terminal ("cross-links").

(4) Spaceborne regenerative baseband processing equipment.

(5) Radiation-hardened microelectronic circuits that are specifically designed or rated to meet or exceed all five of the following characteristics:

(i) A total dose of 5×10<sup>5</sup> Rads (SI);

- (ii) A dose rate upset of  $5 \times 10^8$  Rads (SI)/Sec;
- (iii) A neutron dose of  $1 \times 10^{14}$  N/cm<sup>2</sup>;
- (iv) A single event upset of  $1 \times 10^{-7}$  or less error/bit/day;

(v) Single event latch-up free and having a dose rate latch-up of  $5 \times 10^8$  Rads(SI)/sec or greater.

(6) Propulsion systems which permit acceleration of the satellite on-orbit (i.e., after mission orbit injection) at rates greater than 0.1g.

(7) Attitude control and determination systems designed to provide spacecraft pointing determination and control or payload pointing system control better than 0.02 degrees per axis.

(8) Orbit transfer engines ("kick-motors") which are embedded in the spacecraft. Orbit transfer engines which are not embedded in the spacecraft are controlled under Category IV of this subchapter (except as noted in the note for this paragraph (f)). Here "embedded" means that the device or system cannot feasibly be removed from the spacecraft and cannot be used for other purposes.

(9) Cryptographic items described in Category XIII(b)(1)(x) of this subchapter.

Note: Commercial communications satellites are subject to Commerce Licensing jurisdiction even if they include the individual munitions list systems, components or parts identified in paragraph (f) of this category. In all other cases, these systems, components or parts remain on the USML except non-embedded, solid propellant orbit transfer engines ("kick motors") are subject to Commerce licensing jurisdiction (and not controlled under this subchapter) when they are to be utilized for a specific commercial communications satellite launch, provided the solid propellant "kick motor" being utilized is not specifically designed or modified for military use or capable of being restarted after achievement of mission orbit (such orbit transfer engines are always controlled under Category IV of this subchapter). Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) related to the systems, components, or parts referred to in paragraph (f) of this category are always controlled under this subchapter, even when the satellite itself is licensed by the Department of Commerce.

(g) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to paragraphs (a) through (f) of this category. (See § 125.4 for exemptions.) Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME. In addition, detailed design, development, production or manufacturing data for all

spacecraft systems and for specifically designed or modified components for all spacecraft systems, regardless of which U.S. Government agency has jurisdiction for export of the spacecraft. (See § 125.4 for exemptions.) This coverage by the U.S. Munitions List of detailed design, development, manufacturing or production information directly related to satellites which are not otherwise under the control of this section does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations), as well as data necessary to evaluate in-orbit anomalies and to operate and maintain associated ground equipment.

Note 1: All defense services and technical assistance for satellites and/or launch vehicles, including compatibility, integration, or processing data, is controlled under this subchapter. Technical data provided to the launch provider (form, fit, function, mass, electrical, mechanical, dynamic/environmental, telemetry, safety, facility, launch pad access, and launch parameters) for commercial communications satellites that describe the interfaces for mating and parameters for launch (e.g., orbit, timing) of the satellite is under Commerce jurisdiction.

Note 2: The international space station, being developed, launched and operated under the supervision of the National Aeronautics and Space Administration, is controlled for export purposes under the Export Administration Regulations.

Dated: October 25, 1996.

Lynn E. Davis,

*Under Secretary for Arms Control and International Security Affairs.*

[FR Doc. 96-28401 Filed 11-4-96; 8:45 am]

BILLING CODE 4710-25-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Parts 92 and 176

#### Base Closure and Realignment; Redesignation of Parts

**AGENCY:** Office of the Secretary, Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the heading of subchapter G to identify base closure and realignment documents and the redesignates part 92 as part 176.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** L.M. Bynum, 703-697-4111.

List of Subjects in 32 CFR Parts 92 and 176

Community development, Environmental protection, Government employees, Homeless military personnel, Surplus government property.

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR Chapter I is amended as follows:

#### PART 92—[REDESIGNATED AS PART 176]

1. Part 92 is redesignated as part 176 and added to subchapter G.

1a. The authority citation for newly designated Part 176 continues to read as follows: 10 U.S.C. 2687 note.

#### § 176.15 [Amended]

2. Newly redesignated 176.15, paragraph (b) is amended by revising "§§ 99.20 through 92.45" to read "§§ 176.20 through 176.45".

#### § 176.20 [Amended]

3. Newly redesignated 176.20 is amended in paragraph (a) by revising "part 91" to read "part 175", paragraph (c) introductory text by revising "§ 92.20(a)" to read "§ 176.20(a)" both times it appears, paragraph (c)(1)(i) by revising "§ 92.10(b)" to read "§ 176.10(b)", paragraph (c)(3)(i) by revising "§ 92.20(c)(3)(ii)" to read "§ 176.20(c)(3)(ii)", paragraph (c)(3)(ii)(C) by revising "§ 92.20(c)(2)" to read "§ 176.20(c)(2)", paragraph (c)(5) by revising "§ 92.20(c)(1)" to read "§ 176.20(c)(1)" and by revising "§ 92.30" to read "§ 176.30".

#### § 176.30 [Amended]

4. Newly redesignated 176.30 is amended in paragraph (b)(3)(i) by revising "§ 92.45(a)" to read "176.45(a)", paragraph (b)(5) by revising "§ 92.20(c)(3)" to read "§ 176.20(c)(3)", and paragraph (c) by revising "§ 99.20(c)(6)" to read "§ 176.20(c)(6)".

#### § 176.35 [Amended]

5. Newly redesignated 176.35 is amended in paragraph (b)(4)(i) by revising "§ 92.20(c)(3)" to read "§ 176.20(c)(3)", paragraph (c)(1) introductory text by revising "§ 92.15(a)" to read "§ 176.15(a)", paragraph (c)(2) by revising "§ 92.20(c)(5)" to read "§ 176.20(c)(5)" and by revising "§ 92.40" to read "§ 176.40".

**§ 176.40 [Amended]**

6. Newly redesignated 176.40(a) introductory text is amended by revising § 92.35(b)" to read "§ 176.35(b)".

**§ 176.45 [Amended]**

7. Newly redesignated 176.45 is amended in paragraph (b) by revising "§ 92.40(c)" to read "§ 176.40(c)" and paragraph (c) by revising "§ 92.35(c) and § 92.40(d)" to read "§ 176.35(d) and § 176.40(d)".

Dated: October 28, 1996.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 96-28299 Filed 11-4-96; 8:45 am]

BILLING CODE 5000-04-M

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

RIN 2900-AH77

#### Contract Program for Veterans With Alcohol and Drug Dependence Disorders

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends 38 CFR part 17 by adopting as a final rule the proposal to modify eligibility criteria for veterans participating by contract in the Department of Veterans Affairs' program of alcohol and drug dependence or abuse treatment and rehabilitation in residential and nonresidential facilities. Previous regulations stipulated that, prior to participation in contract care under this program, veterans were to be provided hospital care in facilities over which the Secretary has direct jurisdiction. It was proposed to change the regulations to stipulate that, prior to participation in contract care, veterans must have been or must be receiving care (regardless of whether it was or is hospital care) by professional staff over whom the Secretary has jurisdiction (regardless of whether it is direct jurisdiction). The elimination of the requirement of "hospital care" is necessary to address changed clinical practices and continue the intended program. In the past, substance abuse treatment generally was provided in a hospital setting. Now, much substance abuse treatment also is provided in an ambulatory care or residential setting. Further, this document changes "direct jurisdiction of the Secretary" to "jurisdiction of the Secretary" to allow for continuation of any cases in which VA has had

involvement (including, among other things, fee basis care) and thereby help ensure that a complete course of treatment is provided.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Richard T. Suchinsky, M.D., Associate Director for Addictive Disorders and Psychiatric Rehabilitation (111C1B), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 273-8436. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** This final rule is based on a proposed rule published in the Federal Register on May 21, 1996 (61 FR 25428). We requested that comments to the proposed rule be submitted on or before July 22, 1996. We received no comments. For reasons set forth in the proposed rule and this document, the proposed rule is adopted as a final rule.

The Secretary hereby certifies that the provisions of the final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. There does not appear to be a basis for considering special provisions for small entities since, in all likelihood, only entities that are small entities would conduct activities affected by this rule. Also, because of budgetary constraints and the high utilization of this program, we anticipate no change in the total number of bed days of care paid by VA to participating small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number is 64.019.

#### List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: September 17, 1996.

Jesse Brown,

*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

## PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In section 17.80, paragraph (a)(1) is revised to read as follows:

**§ 17.80 Alcohol and drug dependence or abuse treatment and rehabilitation in residential and nonresidential facilities by contract.**

(a) \* \* \*

(1) Veterans who have been or are being furnished care by professional staff over which the Secretary has jurisdiction and such transitional care is reasonably necessary to continue treatment.

\* \* \* \* \*

[FR Doc. 96-28324 Filed 11-4-96; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region 2 Docket NJ24-1a-158; FRL-5643-2]

#### Clean Air Act Attainment Extension for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This action grants a one (1) year attainment date extension for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide nonattainment area (NYCMSA) which also includes parts of two counties in southwestern Connecticut. The NYCMSA failed to attain the National Ambient Air Quality Standard (NAAQS) for carbon monoxide (CO) by the December 31, 1995 deadline contained in the Clean Air Act as amended in 1990 (CAA). However, section 186(a)(4) of the CAA provides for a one year extension of the CO attainment date if specific requirements are met. Since the NYCMSA has met these requirements, EPA is granting the one year extension.

**DATES:** This action is effective on January 6, 1997, unless adverse or critical comments are received by December 5, 1996. If this action is withdrawn prior to the effective date, timely notice withdrawing this action will be published in the Federal Register.

**ADDRESSES:** All comments should be addressed to: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 25th Floor, New York, New York, 10007-1866.

Copies of the States' requests and relevant documents are available at the following locations for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th floor, New York, New York 10007-1866.

Environmental Protection Agency, Region I Office, Air Quality Planning Unit, One Congress Street, 11th floor, Boston, Massachusetts 02203.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**

Henry Feingersh, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 25th floor, New York, New York 10007-1866, (212) 637-4249, or

Wing Chau, Air Quality Planning Unit, Environmental Protection Agency, Region I Office, One Congress Street, 11th floor, Boston, Massachusetts 02203, (617) 565-3570.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**A. CAA Requirements and EPA Actions Concerning Designation and Classification**

The CAA created a new classification structure for CO nonattainment areas which was based on the severity of the nonattainment problem. For moderate CO nonattainment areas with a design value between 9.1-16.4 parts per million (ppm), the attainment date was to be as expeditious as practicable but no later than December 31, 1995.

The air quality planning requirements for moderate CO nonattainment areas are set out in sections 186 and 187 of the CAA which pertain to the classification of CO nonattainment areas and submission of SIP requirements for these areas, respectively. EPA issued a "General Preamble" which stated EPA's preliminary views concerning how EPA intended to review SIPs and SIP

revisions submitted as required under Title I of the Act, [see generally 57 FR 13489 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. States containing CO moderate nonattainment areas with design values of 9.1-16.4 ppm were required to submit SIPs for these areas on or before November 15, 1992 which would provide for attainment by December 31, 1995.

**B. Attainment Determinations**

EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date, [see sections 179(c) and 186(b)(2) of the CAA]. EPA also has the responsibility of making attainment determinations for moderate CO nonattainment areas by no later than six (6) months after the December 31, 1995 attainment date for these areas.

EPA bases the attainment determinations for CO on whether an area has eight consecutive quarters (two years) of clean air quality data. No special or additional SIP submittal is required from the area for this determination. Section 179(c)(1) of the CAA provides that the attainment determination is to be based on an area's "air quality as of the attainment date."

A CO nonattainment area's air quality status is determined in accordance with 40 CFR 50.8, and in accordance with EPA policy as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled "Ozone and Carbon Monoxide Design Value Calculations," June 18, 1990. Compliance with the NAAQS is discussed in terms of the eight-hour CO NAAQS, rather than the one-hour NAAQS, because the eight-hour NAAQS is typically the standard of concern. For this nonattainment area, the one-hour CO NAAQS was not exceeded in 1994 or 1995. For determining compliance with the eight-hour CO NAAQS, the maximum and second maximum (non-overlapping) eight-hour values at a site for the most recent two years of data are examined. The highest observed second maximum is used to determine compliance for that site. The eight-hour CO NAAQS is violated when the second maximum exceeds the 9 ppm standard (greater than or equal to 9.5 ppm to adjust for rounding, as in 40 CFR 50.8(d)), in either of the two most recent years of data. If all monitors in a nonattainment area have eight-hour second maximum values less than 9.5 for the previous eight quarters or a total of two consecutive and complete years of data, the CO NAAQS is met. If any monitoring site in an area has a second maximum value greater than or equal to

9.5 ppm, the area has violated the CO NAAQS.

**C. Application for a One-year Extension of the Attainment Date**

If the area does not have the two consecutive clean years of data to show attainment of the CO NAAQS, an area may apply for an extension of the attainment date. Pursuant to section 186(a)(4) of the Act, an area may apply for and EPA may grant a one-year extension of the attainment date if the area has: (1) complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the CO NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year. If the area does not have the requisite number of years of clean air quality data to show attainment and does not apply or does not qualify for an attainment date extension, the area will be reclassified as serious by operation of law.

Section 186(a)(4) of the CAA providing for the extension of attainment dates for areas that meet the above minimum requirements has been delegated to the Regional Administrators. This provision does not dictate or compel that EPA grant extensions to such areas. In exercising this discretionary authority for CO nonattainment areas, EPA will examine the air quality planning progress made in the moderate area. EPA will be disinclined to grant an attainment date extension unless an area had, in substantial part, addressed its moderate CO planning obligations. In order to determine whether the area has substantially met these planning requirements, EPA will review the area's application for the attainment date extension to determine whether the area has: (1) adopted and substantially implemented control measures to satisfy the requirement for the moderate CO nonattainment area; and (2) that reasonable further progress is being met for the area.

If the area cannot make a sufficient demonstration that it has complied with the extension criteria stated above, and EPA determines that the area has not made a timely demonstration of attainment of the CO NAAQS, the area will be reclassified as serious by operation of law pursuant to section 186(b)(2) of the Act. If an extension is granted, EPA will again review the area's air quality data at the end of the extension year to determine whether the area has attained the CO NAAQS.

## II. Extension Request

On April 24, 1996, New Jersey submitted to EPA a request for a one-year extension of the NYCMSA CO nonattainment area. New York and Connecticut submitted letters to EPA on July 31, 1996 and June 27, 1996, respectively, concurring with New Jersey's request. The nonattainment area is composed of a number of counties in New York, New Jersey, and Connecticut. These counties include Bronx County, Kings County, Nassau County, New York County, Queens County, Richmond County, and Westchester County in New York, part of Fairfield County (all cities and townships except Shelton City) and part of Litchfield County (Bridgewater Town and New Milford Town) in Connecticut, Bergen County, Essex County, Hudson County, Union County, and the Passaic County municipalities of Clifton, Passaic and Patterson in New Jersey. As required by the CAA, this request was based on air quality data from the two years (1994 and 1995) prior to the December 31, 1995 attainment date.

### A. Air Quality Data

Pursuant to section 186(a)(4)(B) of the Act, an area must have no more than one exceedance of the CO NAAQS in the year proceeding the extension year at any one monitoring site in the nonattainment area.

The NYCMSA nonattainment area has one CO Special Purpose Monitoring (SPM) site, five National Air Monitoring System Sites (NAMS), and nine State and Local Air Monitoring Sites (SLAMS). Sampling at these sites is conducted every day. Data from these sites was submitted by each of the States in the CMSA for inclusion in EPA's air quality data system, AIRS and was deemed valid by EPA.

A review of the data for calendar years 1994 and 1995 for the NYCMSA CO nonattainment area shows violations of the eight hour NAAQS occurred at two separate monitoring stations in 1994. As discussed previously in this document, a violation is defined as more than one exceedance of the NAAQS occurring at the same site during a calendar year. Exceedances occurred at the monitoring site in North Bergen, NJ, on February 19 (11.6 ppm), December 4 (10.7), and December 22 (10.1), therefore, resulting in a violation of the NAAQS. In addition, on two separate and non-overlapping eight hour periods on February 19 (12.0 ppm and 11.3 ppm), concentrations exceeded the NAAQS at the Elizabeth, NJ monitoring site. Thus the CO standard was violated here also.

In 1995, the North Bergen, NJ monitoring site and the Flatbush Avenue, NY monitoring site each recorded one exceedance. However, since neither of these sites had two exceedances, there were no violations of the CO NAAQS. Therefore, the area has met the air quality requirements for a one year extension of the attainment date.

### B. Compliance with Applicable SIP

Pursuant to section 186(a)(4)(A) of the Act, an area must demonstrate that it has complied with all requirements and commitments pertaining to the affected nonattainment area in the applicable implementation plan. The States of New York, New Jersey, and Connecticut are in compliance with the requirements and commitments of each States' CO SIPs, (see 61 FR 38594, 61 FR 38591, and 61 FR 38574).

### C. Substantial Implementation of Control Measures

The States of New York, New Jersey, and Connecticut have developed and implemented substantial control measures for CO in the NYCMSA nonattainment area. These control measures consist of the Federal emission controls required for new vehicles, oxygenated fuels programs, and inspection and maintenance (I/M) programs. The National Highway System Designation Act of 1995 has given states additional time and flexibility in the development of enhanced I/M programs. Therefore, New York and New Jersey are currently amending their SIPs regarding their enhanced I/M programs.

### D. Emission Reduction Progress

The historical trend in the NYCMSA's air quality has been toward lower CO levels. CO concentrations have decreased from a second-high eight-hour average of 15.8 ppm and 186 exceedances in 1981, to a second-high eight-hour average of 8.1 ppm and two exceedances (at separate sites) in 1995. The continued improvement in CO concentrations in the NYCMSA has been achieved mainly by emission reductions resulting from turnover of the vehicle fleet, required vehicle repairs and maintenance under the existing I/M programs, and the mandatory wintertime use of oxygenated fuels. These control measures and emission reductions are permanent and enforceable.

The enhancement of existing I/M programs and the continued implementation of oxygenated fuels programs, combined with the Federal Motor Vehicle Control Program is

expected to result in further decreases in CO emissions and ambient concentrations in the NYCMSA. Based on the above, EPA believes that reasonable further progress (RFP) toward attainment of the CO NAAQS has been demonstrated.

## III. Summary

EPA is, by today's action, granting New Jersey's request for a one-year extension of the CO attainment date for the NYCMSA. EPA had received letters of concurrence on New Jersey's extension request from New York and Connecticut. Although the CMSA area failed to meet the December 31, 1995 CO attainment date, the CMSA has shown the progress requisite to the extension authorized by section 186(a)(4) of the Act. This action extends the attainment date from December 31, 1995, to December 31, 1996 for the entire NYCMSA.

EPA has reviewed this request for a one-year extension of the CO attainment date for the NYCMSA nonattainment area for conformance with the CAA enacted on November 15, 1990. EPA has determined that this action conforms with those requirements. EPA is publishing this action without a prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve this attainment date extension should adverse or critical comments be filed. This final action will be effective January 6, 1997, unless, by December 5, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action before its effective date. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective January 6, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP will be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

## IV. Administrative Requirements

*Executive Order 12866*

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

*Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Attainment date extensions under section 186, as with SIP approvals under section 110 and subchapter I, part D of the Act, do not create any new requirements. Therefore, because the granting of the NYCMSA one-year CO attainment date extension does not impose any new requirements, I certify that it does not have a significant impact on any small entities. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

*Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for

informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that an attainment date extension does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. A finding that an area should be granted a one-year extension of the attainment date consists of factual determinations based on air quality considerations and the areas's compliance with certain prior requirements, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

*Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 6, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2), 42 U.S.C. 7607(b)(2).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 15, 1996.

William J. Muszynski,  
*Deputy Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

**Subpart H—Connecticut**

2. Section 52.372 is added to read as follows:

**§ 52.372 Extensions.**

Pursuant to section 186(a)(4) of the Clean Air Act, as amended in 1990, the Regional Administrator hereby extend for one year (until December 31, 1996) the attainment date for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide nonattainment area.

**Subpart FF—New Jersey**

3. Section 52.1572 is added to read as follows:

**§ 52.1572 Extensions.**

Pursuant to section 186(a)(4) of the Clean Air Act, as amended in 1990, the Regional Administrator hereby extends for one year (until December 31, 1996) the attainment date for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide nonattainment area.

**Subpart HH—New York**

4. Section 52.1672 is added to read as follows:

**§ 52.1672 Extensions.**

Pursuant to section 186(a)(4) of the Clean Air Act, as amended in 1990, the Regional Administrator hereby extends for one year (until December 31, 1996) the attainment date for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide nonattainment area. [FR Doc. 96-28197 Filed 11-4-96; 8:45 am]

BILLING CODE 6560-50-F

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****46 CFR Part 221**

[Docket No. R-168]

RIN 2105-AC63

**Regulated Transactions Involving Documented Vessels and Other Maritime Interests; Inflation Adjustment of Civil Monetary Penalties**

**AGENCY:** Maritime Administration, DOT.  
**ACTION:** Final rule.

**SUMMARY:** In accordance with the Federal Civil Monetary Penalty Inflation Adjustment Act of 1996, as amended by the Debt Collection Improvement Act of 1996, this final rule incorporates inflation adjustments for the civil monetary penalties described in procedural regulations of the Maritime Administration (MARAD) contained in Subpart E of 46 CFR Part 221.

**EFFECTIVE DATE:** This rule is effective on November 7, 1996.

**FOR FURTHER INFORMATION CONTACT:** Edmund T. Sommer, Jr., Chief, Division of General and International Law, Maritime Administration, Tel. (202) 366-5181, Fax. (202) 366-7485.

**SUPPLEMENTARY INFORMATION:**

The Debt Collection Improvement Act of 1996

In an effort to maintain the remedial impact of civil money penalties (CMPs) and promote compliance with law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (P.L. 101-410) was amended by the Debt Collection Improvement Act of 1996 (P.L. 104-134) to require Federal agencies to regularly adjust certain CMPs for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable CMPs, with specified exemptions, and to make further adjustments at least once every four years thereafter.

The Debt Collection Improvement Act of 1996 further stipulates that any resulting increases in a CMP due to the calculated inflation adjustments (i) should apply only to the violations that occur after October 23, 1996, the Act's effective date, and (ii) should not exceed 10 percent of the penalty indicated.

**Method of Calculation**

Under the Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by the cost of living adjustment. The "cost of living" adjustment is defined as the percentage of each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of the CMP last set or adjusted pursuant to law. Any calculated increase under this adjustment is subject to a specific rounding formula set in the Act.

*Civil Penalties Under 46 U.S.C. 31309 and 31330; 46 App. U.S.C. 808*

MARAD has provisions in its regulations at 46 CFR Part 221 prescribing procedures for three civil

penalties that it may assess under the following authorities:

1. 46 U.S.C. 31309—a general civil penalty of up to \$10,000 for violation of 46 U.S.C. Chapter 313—Commercial Instruments and Maritime Liens.

2. 46 U.S.C. 31330—a penalty of up to \$25,000 for violation of 46 U.S.C. 31328 or 31329, relating to requirements for trustees of mortgaged vessels and vessel interests and purchasers of documented vessels under order of a district court.

3. 46 App. U.S.C. 808—a penalty of up to \$10,000 for the unlawful transfer of a documented vessel or interests therein.

MARAD is amending its regulations at 46 CFR 221.61 to adjust the maximum amount of each of these three civil monetary penalties. Each of the \$10,000 maximum penalties is being increased to \$11,000. The \$25,000 maximum penalty is being increased to \$27,500.

**Rulemaking Analysis and Notices**

*Executive Order 12866 (Regulatory Planning and Review), and Department of Transportation (DOT) Regulatory Policies; P.L. 104-121.*

This final rule is exempt from review by OMB under E.O. 12866 because it is limited to the adoption of statutory language without interpretation. It also is not considered a major rule for purposes of Congressional review under P.L. 104-121.

**Administrative Procedure Act**

The Administrative Procedure Act (5 U.S.C. 553) provides an exception to the notice and comment procedures because they are unnecessary or contrary to the public interest. MARAD finds that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with notice and comment since this rule only implements statutory authority as mandated in P.L. 104-134, with no issues of policy discretion. Accordingly, opportunity for public comment is unnecessary.

**Federalism**

MARAD has analyzed this rulemaking in accordance with principles and criteria contained in E.O. 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Regulatory Flexibility**

The Maritime Administrator certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. Any penalties that may be assessed by MARAD will be based on the nature of the violation and not the size of the

entity. The aggregate impact of any enforcement action that might be taken by MARAD on violations can be expected to have a negligible impact on small business entities.

**Environmental Assessment**

MARAD has concluded that this final rule has no environmental impact and that an environmental impact statement is not required.

**Paperwork Reduction**

This rulemaking contains no new or amended information collection or recordkeeping requirements which have been or require approval by the Office of Management and Budget. This rule does not impose any unfunded mandates.

**List of Subjects in 46 CFR Part 221**

Maritime carriers, Mortgages, Reporting and recordkeeping requirements, Trust and trustees.

Accordingly, 46 CFR Part 221 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 46 App. U.S.C. 802, 803, 808, 835, 839, 841a, 114(b), 1195; 46 U.S.C. chs. 301 and 313; 49 U.S.C. 336; 49 CFR 1.66

2. Section 221.61 is revised to read as follows:

**§ 221.61 Purpose.**

This subpart describes procedures for the administration of civil penalties that the Maritime Administration may assess under 46 U.S.C. 31309 and 31330, and section 9(d) of the Shipping Act, 1916, as amended (46 App. U.S.C. 808(d), pursuant to 49 U.S.C. 336.

Note: Pursuant to 46 U.S.C. 31309, a general penalty of not more than \$11,000 may be assessed for each violation of chapter 313 or 46 U.S.C. subtitle III administered by the Maritime Administration, and the regulations in this part that are promulgated thereunder, except that a person violating 46 U.S.C. 31328 or 31329 and the regulations promulgated thereunder is liable for a civil penalty of not more than \$27,500 for each violation. A person that charters, sells, transfers or mortgages a vessel, or an interest therein, in violation of 46 App. U.S.C. 808 is liable for a civil penalty of not more than \$11,000 for each violation. These penalty amounts are in accordance with Public Law 101-410, as amended by Public Law 104-134. Criminal penalties may also apply to violations of these statutes.

By Order of the Maritime Administrator.

Dated: October 31, 1996.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 96-28415 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-01-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 951116270-530802; I.D. 102896C]

**Fisheries of the Northeastern United States; Summer Flounder Fishery**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Commercial quota harvest.

**SUMMARY:** NMFS announces that the summer flounder commercial quota available to the Commonwealth of Virginia (Virginia) has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Virginia for the remainder of calendar year 1996, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in that state.

**EFFECTIVE DATE:** October 31, 1996, through December 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Regina Spallone, Fishery Policy Analyst, 508-281-9221.

**SUPPLEMENTARY INFORMATION:** Regulations governing the summer flounder fishery are found at 50 CFR part 648, subparts A and G. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percentage allocated to each state is described in § 648.100. Amendment 7 to the Fishery Management Plan for the Summer Flounder Fishery (November 24, 1995, 60 FR 57955) revised the fishing mortality rate reduction schedule for summer flounder, and the revised schedule was the basis for establishing the 1996 quota. The total commercial quota for summer flounder for the 1996 calendar year was adopted to ensure achievement of the fishing mortality rate of 0.41 for 1996 and is set equal to 11,111,298 lb (5,040,000 kg) (January 4, 1996, 61 FR 291). The percentage allocated to vessels landing summer flounder in Virginia is 21.31676 percent or 2,368,569 lb (1,074,365 kg). On

March 13, 1996 (61 FR 10286), the State of North Carolina transferred 5,773 lb (2,619 kg) of summer flounder quota to Virginia. The resulting quota for Virginia was 2,374,342 lb (1,076,983 kg).

Section 648.100(d) provides that any overages of the commercial quota landed in any state be deducted from that state's annual quota for the following year. In calendar year 1995, a total of 3,355,838 lb (1,522,183 kg) were landed in Virginia. The amount allocated for Virginia landings in 1995 was 3,182,177 lb (1,443,411 kg), creating an overage of 173,661 lb (78,771 kg) that was deducted from the amount allocated for landings in that state during 1996 (April 5, 1996, 61 FR 15199). The resulting 1996 quota for Virginia is 2,200,681 lb (998,212 kg).

Section 648.101(b) requires the Regional Administrator, Northeast Region (Regional Administrator) to monitor state commercial quotas and to determine when a state commercial quota has been harvested. The Regional Administrator is further required to publish a notification in the Federal Register advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined that the 1996 summer flounder quota allocation for vessels landing in Virginia has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective October 31, 1996, through December 31, 1996, further landings of summer flounder in Virginia by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1996 calendar year, unless additional quota becomes available through a transfer and is announced in the Federal Register. Federally permitted dealers are also advised that effective on October 31, 1996, through December 31, 1996, they may not purchase summer flounder from federally permitted vessels that land in Virginia for the remainder of the calendar year, or until additional quota becomes available.

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 30, 1996.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 96-28362 Filed 10-31-96; 10:28 am]

BILLING CODE 3510-22-F

**50 CFR Part 660**

[Docket No. 951227306-5306-01; I.D. 102996A]

**Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Reductions**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Fishing restrictions; request for comments.

**SUMMARY:** NMFS announces further restrictions to the Pacific Coast groundfish fishery for yellowtail rockfish. This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. This restriction is intended to keep landings as close as possible to the 1996 harvest guideline for yellowtail rockfish.

**DATES:** Effective from 0001 hours (local time) November 1, 1996, until the effective date of the 1997 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the Federal Register. Comments will be accepted through November 20, 1996.

**ADDRESSES:** Submit comments to William Stelle, Jr., Administrator, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115-0070; or Hilda Diaz-Soltero, Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206-526-6140; or Rodney McInnis at 310-980-4040.

**SUPPLEMENTARY INFORMATION:** The following changes to routine management measures for yellowtail rockfish were recommended by the Pacific Fishery Management Council (Council), in consultation with the States of Washington, Oregon, and

California, at its October 22–25, 1996, meeting in San Francisco, CA.

Yellowtail rockfish is one component of the *Sebastes* complex and is managed with different harvest guidelines and trip limits north and south of Cape Lookout, OR (45°20'15" N. lat.). South of Cape Mendocino, CA (40°30' N. lat.) there is no specific harvest guideline or trip limit for yellowtail rockfish, other than the overall limit for the *Sebastes* complex. The northern harvest guideline for yellowtail rockfish (which includes the U.S. portion of the Vancouver area plus the Columbia area north of Cape Lookout) is 3,590 mt, and the southern harvest guideline (for the Columbia area south of Cape Lookout plus the Eureka area) is 2,580 mt.

In January 1996, the limited entry trip limit for the *Sebastes* complex was 70,000 lb (31,752 kg) cumulative per 2-month period north of Cape Lookout, and could include no more than 32,000 lb (14,515 kg) yellowtail rockfish and 18,000 lb (8,165 kg) canary rockfish (61 FR 279, January 4, 1996). On September 1, 1996 the 2-month cumulative trip limit for yellowtail rockfish was reduced to 20,000 lb (9,072 kg) (61 FR 47089, September 6, 1996). At the same time, the resumption of 1-month cumulative trip limits in November and December 1996 was announced for greater management flexibility. The change to 1-month cumulative trip limits also removed the provision that enabled 60 percent of the 2-month cumulative trip limit to be landed in one of the two months.

The best available information at the October 1996 Council meeting indicated that 2,808 mt of yellowtail rockfish had been taken north of Cape Lookout through September 30, 1996. If no action is taken, the 3,590-mt harvest guideline for this area would be reached by late October-early November 1996, and the harvest guideline would be exceeded by 5 percent by the end of the year. The Council recommended an immediate reduction in the cumulative trip limit for yellowtail rockfish north of Cape Lookout, from 20,000 lb (9,072 kg) cumulative per 2-month period to 6,000 lb (2,722 kg) cumulative per 1-month period starting November 1, 1996. The 1-month cumulative trip limits in November and December 1996 also apply to the *Sebastes* complex and

canary rockfish north of Cape Lookout and are the same as announced on September 6, 1996, at 61 FR 47089: 35,000 lb (15,876 kg) for the *Sebastes* complex, and 9,000 lb (4,082 kg) for canary rockfish. The 1-month cumulative trip limits for the *Sebastes* complex between Cape Lookout and Cape Mendocino, CA (40°30' N. lat.) also are the same as announced on September 6, 1996, at 61 FR 47089 for November and December 1996: 50,000 lb (22,680 kg) for the *Sebastes* complex, 35,000 lb (15,876 kg) for yellowtail rockfish, and 9,000 lb (4,082 kg) for canary rockfish.

#### NMFS Action

NMFS concurs with the Council's recommendation, which is intended to keep landings of yellowtail rockfish as close as possible to its 1996 harvest guideline. The trip limit changes apply to both the limited entry and open access fisheries, including exempt trawl gear used to harvest pink shrimp and prawns. In addition, as stated in the annual management measures at 61 FR 279 (January 4, 1996), "A vessel operating in the open access fishery must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery; or for the same gear and/or subarea in the limited entry fishery \* \* \*"

The annual management measures published at 61 FR 279, January 4, 1996, as amended, are modified as follows:

1. Paragraph IV.C.(2)(a)(i)(B) of the annual management measures for yellowtail rockfish and the *Sebastes* complex north of Cape Lookout is revised to read as follows:

IV. \* \* \*

C. \* \* \*

(2) \* \* \*

(a) \* \* \*

(i) \* \* \*

(B) *November-December 1996.* The cumulative trip limit for the *Sebastes* complex taken and retained north of Cape Lookout is 35,000 lb (15,876 kg) per vessel per 1-month period. Within this cumulative trip limit for the *Sebastes* complex, no more than 6,000 lb (2,722 kg) may be yellowtail rockfish taken and retained north of Cape Lookout, and no more than 9,000 lb (4,082 kg) may be canary rockfish.

2. Paragraph IV.C.(3)(b) of the annual management measures for yellowtail rockfish and the *Sebastes* complex is revised to read as follows:

IV. \* \* \*

C. \* \* \*

(3) \* \*

(b) *Open access fishery.* If smaller than the limits at paragraph IV.I. of the annual management measures, the following cumulative monthly trip limits apply (within the limits at paragraph IV.I.) during November-December 1996: For the *Sebastes* complex, 35,000 lb (15,876 kg) north of Cape Lookout, 50,000 lb (22,680 kg) between Cape Lookout and Cape Mendocino, and 100,000 lb (45,359 kg) south of Cape Mendocino; for yellowtail rockfish, 3,000 lb (1,361 kg) north of Cape Lookout, and 35,000 lb (15,876 kg) between Cape Lookout and Cape Mendocino; for bocaccio, 30,000 lb (13,608 kg) south of Cape Mendocino; and, for canary rockfish, 9,000 lb (4,082 kg) coastwide.

#### Classification

These actions are authorized by the regulations implementing the FMP. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Administrator, Northwest Region, NMFS (see ADDRESSES) during business hours. Because of the need for immediate action to slow the rate of harvest of yellowtail rockfish, and because the public had an opportunity to comment on the action at the October 1996 Council meeting, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 660.323(b)(1)(i) and are exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 31, 1996.

Richard W. Surdi,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 96-28402 Filed 10-31-96; 2:40 pm]

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# Proposed Rules

Federal Register

Vol. 61, No. 215

Tuesday, November 5, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Part 1605

#### Correction of Administrative Errors

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a proposed revision to the Board's existing Error Correction Regulations. The proposed revision reorganizes the regulations to make them more concise and easy to read, reflects changes in Board policy and procedures adopted since publication of the regulations in 1987, and eliminates provisions that no longer apply.

**DATES:** Comments must be received on or before December 5, 1996.

**ADDRESSES:** Comments may be sent to: Elizabeth S. Woodruff, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth S. Woodruff, (202) 942-1661.

**SUPPLEMENTARY INFORMATION:** Interim regulations governing error correction relating to the Thrift Savings Plan (TSP) were published in the Federal Register on May 13, 1987 (52 FR 17919) and July 22, 1987 (52 FR 27527). The final regulations, found at 5 CFR Part 1605, were published in the Federal Register on December 4, 1987 (52 FR 46314). The present proposal revises the final regulations. This proposed revision includes several substantive changes in the procedures by which administrative errors are corrected, as well as non-substantive editorial changes in style and organization.

The proposed revision has been divided into four subparts. Subpart A contains definitions of terms used in this part. The definition section has been expanded to encompass a wider

range of terms than was included in the existing regulation. The expanded definition section is consistent with the definitions contained in 5 CFR Part 1606, and should eliminate potential confusion or conflict between the provisions of the two parts. In addition, the proposed revision refers to Part 1606 where such references clarify the relationship between the two parts.

Subpart B applies to employing agency errors. The proposed revision has been reorganized for clarity into separate subparts for employing agency errors and for Board or TSP recordkeeper errors. Board and TSP recordkeeper errors are addressed in Subpart C.

The existing regulations contain two largely duplicative sections: § 1605.2, Failure to participate or delay in participation, and § 1605.3, Insufficient contribution. The proposed revision combines these sections in § 1605.2, makeup of missed or insufficient contributions, without substantive change in the essential rules of the existing regulation. Employing agencies are responsible for promptly making up employer contributions (agency automatic (1%) contributions and agency matching contributions) that they are obligated to make but have not made. If employee contributions have not been made due to an employing agency error, the participant may establish a schedule of makeup contributions to be deducted from current pay in addition to any regular TSP contributions the participant may be making. The employing agency is also responsible for contributing any applicable agency matching contributions on the missed employee contributions, but only when the participant makes up the employee contributions.

Section 1605.4 of the existing regulations, titled "Excess deduction or contribution," addresses removal by employing agencies of contributions from participants' accounts. The proposed revision deals with that subject in § 1605.3, which incorporates more detailed rules for removal of contributions than were included in § 1605.4 of the existing regulations. In particular, § 1605.3 describes information employing agencies must submit on negative adjustment records, the processing of negative adjustment records (including calculation of

investment gains and losses on the money that is removed), and the manner in which the money will be removed from the participants' accounts. Different rules apply to investment gains or losses for employee contributions and employer contributions.

Sections 1605.9 and 1605.10 of the existing regulations address TSP contributions related to back pay awards or other retroactive pay adjustments. Those issues are addressed in § 1605.4 of the proposed revision, which contains more detail about the types of elections a participant is entitled to make when he or she is reinstated without a break in service after reversal of a wrongful separation. The proposed revision clarifies that, for purposes of computing lost earnings on makeup contributions that relate to the period of wrongful separation, the participant may not choose investment funds with the benefit of hindsight concerning the performance of the TSP investment funds. Earnings will be calculated at the G Fund rate of return up to the date of any interfund transfer that was made by the participant during the period of separation. From the date of the interfund transfer forward, the lost earnings will be calculated as if the money had been invested in accordance with the percentages elected for the interfund transfer.

This approach is consistent with, and reiterates, the rules established in Part 1606 (which addresses the payment of lost earnings attributable to employing agency errors), particularly § 1606.11(c). As in the existing regulations, the proposed revision sets forth different rules for back pay awards or other retroactive pay adjustments for periods during which the participant remained employed by the Federal Government.

Section 1605.5 governs situations where employing agencies have erroneously classified participants' retirement coverage (e.g., FERS or CSRS). This issue was previously addressed in § 1605.11. The proposed revision provides more detailed rules than the existing regulation. Under the proposed revision, different rules apply for a FERS participant who has been misclassified as CSRS and a CSRS participant who has been misclassified as FERS.

Section 1605.6 of the proposed revision provides for the employing

agencies to establish procedures for processing claims for correction of agency errors. This section also provides time limits for filing such claims. The proposed revision retains without substantive change the rules that apply to claims filed with employing agencies under existing § 1605.8.

Subpart C applies to errors committed by the Board or the TSP recordkeeper, not errors committed by employing agencies. Some Board or recordkeeper errors, as addressed in § 1605.7, must be corrected by crediting earnings (positive or negative) to a participant's account in order to make the participant whole with respect to earnings the account would have received had the error not occurred. Such payments of lost earnings are, in effect, paid by the rest of the TSP participants, as if they were administrative expenses of the Plan. Such lost earnings should not be confused with those payable under Part 1606, which are paid not by the Plan but by employing agencies that make errors relating to TSP accounts. Section 1605.7 also covers other errors that can be corrected by the TSP, such as reversal of taxable loan distributions caused by Board or TSP recordkeeper errors or erroneous processing of court orders.

Section 1605.8 of the proposed revision contains rules for processing claims for correction made by Plan participants to the TSP recordkeeper or the Board. The proposed rules adopt the informal claims process that has evolved over the course of the Board's operations. Claims may be made in writing to the TSP recordkeeper or to the Board. There is no required format for presenting a claim; a letter setting forth the nature of the claim and the correction sought is sufficient. A participant may request review by the Board of a denial issued by the TSP recordkeeper. All decisions by the Board are final administrative decisions. Section 1605.8 also contains time limits for filing claims or requesting reconsideration of the denial of a claim by the TSP recordkeeper.

Subpart D contains miscellaneous provisions not addressed by other subparts of the proposed revision.

#### Section-by-Section Analysis

##### *Subpart A—Definitions*

Section 1605.1 contains definitions of terms used in this part. Important additions to this section are the definitions of "employing agency error," "Board error," and "recordkeeper error." These terms warrant definition because they describe the errors that give rise to corrections under this part.

The definitions are intentionally broad so that participants will be encouraged to seek correction whenever they are denied rights given in applicable statutes or regulations. When the Board, the TSP recordkeeper, or an employing agency fails to follow procedures provided in bulletins or other communication materials provided to participants or employing agencies, participants should be able to expect that those procedures will be followed, and to obtain correction under this part when they are not. However, other forms of relief, such as punitive damages or consequential damages, are not statutorily authorized.

##### *Subpart B—Employing Agency Errors*

Section 1605.2 applies whenever an employing agency error causes a participant's TSP account not to receive all of the contributions it should receive, whether employee contributions, employer contributions, or both.

Section 1605.2(b) applies to missed employer contributions. An employing agency's obligation to make agency automatic (1%) contributions is unrelated to any decision by the participant whether to make employee contributions. Under 5 U.S.C. 8432(c)(1)(A), if a FERS employee receives basic pay, he or she is entitled to receive agency automatic (1%) contributions. When an employing agency discovers that it has failed to provide them, it should promptly contribute the correct amount, in a lump sum, to the affected participant's account. The proposed revision eliminates the requirement in the existing regulations that the contributions be made within 30 days of the agency's discovery of the error, in favor of a requirement that the contributions be submitted "promptly." Although this requirement provides greater flexibility than the previous standard, experience shows that prompt action will rarely require more than 30 days; it is anticipated that in most cases much fewer than 30 days will be sufficient. The employing agency may also be required to submit lost earnings records under Part 1606.

Similarly, if an employing agency has made proper employee contributions on behalf of a FERS participant, but has failed to make all or any part of the agency matching contributions to which the participant is entitled, it must promptly make those contributions in a lump sum upon discovery of the error. Such contributions may also be subject to lost earnings under Part 1606.

Under no circumstances may an employing agency submit agency

matching contributions associated with employee contributions that have not yet been made. For instance, if a participant makes up missed employee contributions under § 1605.2(c), then under § 1605.2(c)(7) any associated agency matching contributions must be made throughout the schedule of makeup contributions. In that situation, no lump sum deposit of agency matching contributions is permitted. If the schedule of makeup contributions is suspended or terminated, then the associated agency matching contributions will similarly be suspended or terminated.

Under proposed §§ 1605.2(c) (1) and (2), in order to facilitate submission of any related lost earnings records by the employing agency, the Board has determined that the agency should have the flexibility to establish the schedule in a manner other than equal contributions. In some cases, this will enable the employing agency to avoid having to submit two or more lost earnings records (for agency matching contributions) having the same beginning date but different ending dates. Except to the extent necessary to accomplish that purpose, however, employing agencies are encouraged to work with participants to establish schedules providing for relatively equal makeup contributions.

The Board has established a ceiling on the number of pay periods over which the makeup contributions may extend. This was done to allow participants sufficient time to make up missed contributions without undue financial burden and, at the same time, avoid an undue administrative burden on the employing agencies resulting from extended schedules of makeup contributions. The limit is four times the number of pay periods over which the error(s) occurred. The agency may, however, shorten that maximum period to no less than twice the number of pay periods over which the error(s) occurred. It is expected that employing agencies will exercise their discretion to shorten the maximum schedule of makeup contributions only if there are compelling administrative reasons to do so.

Under § 1605.2(c)(4), the makeup employee contributions are not counted against the percentage limit on TSP contributions per pay period. Because the makeup contributions merely allow the participant to make contributions that should have been made in earlier pay periods, the additional contributions are statutorily authorized. However, the Internal Revenue Code annual limits on contributions found at 26 U.S.C. 402(g)(1) and 26 U.S.C. 415

contain no exceptions for contributions that should have been made in prior years. The Board has no authority to waive the Internal Revenue Code annual limits. Section 1605.2(c)(5) permits any makeup contributions that cannot be made in any year because of the Internal Revenue Code annual limits to be carried forward into subsequent years.

If application of the Internal Revenue Code annual limits is anticipated when the schedule of makeup contributions is established, the schedule can be designed to suspend contributions upon reaching the limit for any calendar year. Even if a schedule is not designed in this manner, the schedule may be suspended at the participant's request if necessary to avoid losing the opportunity to make regular TSP contributions. A similar suspension of the schedule is permitted when the participant does not have sufficient net pay to make the contribution called for by the schedule. A period of suspension does not count against the ceiling on the number of pay periods over which the schedule may extend.

Under § 1605.2(c)(6), a participant may elect to terminate a schedule of makeup contributions at will, but if he or she does so, that termination (as opposed to a suspension due to the Internal Revenue Code annual limits or insufficient net pay) is irrevocable. Also, once a schedule of payments begins, a participant may not make partial contributions under the schedule as an alternative to terminating the schedule.

If a participant separates from Federal service before completing the schedule of makeup contributions, the participant may elect to have the remaining makeup contributions contributed from his or her final paycheck, without regard to the percentage limits (5% or 10%) contained in FERSA (but still subject to the Internal Revenue Code annual limits). Contributions may only be deducted from pay that constitutes basic pay. For example, no contributions may be deducted from a lump-sum payment of annual leave, which is not basic pay.

If there are further makeup contributions remaining on the schedule after the final paycheck, they may not be made up through any other method of contribution to the TSP. The participant's only remedy in that situation would be a direct action against the employing agency under 5 U.S.C. 8477 for lost benefits caused by the employing agency error (this may include, for example, lost opportunity to receive matching contributions and lost tax advantages). The Board anticipates that, in most cases, the participant and employing agency will be able to reach an administrative settlement of the

participant's claim without involving the TSP and without the need to resort to the Federal courts.

Under § 1605.2(c)(8), any makeup employee contributions and makeup employer contributions must be reported by the employing agency for investment among the TSP investment funds using the participant's investment fund allocation election, if any, that is in effect at the time the makeup contributions are made. If no such allocation election is in effect at that time, the makeup contributions must be reported by the employing agency for investment in the G Fund. The money will not, in other words, be reported by the employing agency for investment in the investment fund(s) to which it would have been contributed had the error not occurred.

The investment of the makeup contributions pursuant to the participant's current investment allocation does not, however, control any calculation of lost earnings on the makeup contributions. That calculation will be performed under the rules set forth in Part 1606, based on tracking by the TSP recordkeeper of the investment fund(s) in which the money would have been invested from the date it should have been contributed to the date the makeup contribution was actually made. In addition, under Part 1606, the processing of lost earnings records may cause money to be moved among the investment funds, in order to place the account in the position it would have attained had the error not occurred.

Section 1605.2(c)(10) provides that makeup employee contributions may only be made by payroll deduction. Moreover, those payroll deductions may only be made from pay that constitutes basic pay. Makeup contributions may not be deducted from a final lump-sum payment of annual leave or from any other pay that does not constitute basic pay, such as the pay of a temporary employee.

Section 1605.2(c)(11) serves as a reminder to employing agencies that correction under Part 1605 may not be sufficient to meet their obligation to correct agency contribution errors. It may also be necessary to submit lost earnings records under Part 1606.

Section 1605.3 governs removal of erroneous contributions. This can arise in a multitude of circumstances, such as where a participant elects to contribute 1% of basic pay and the agency erroneously contributes 10% because of a data entry error, where an agency erroneously contributes matching contributions to the account of a CSRS participant who was temporarily (and incorrectly) classified as FERS, or when

a participant erroneously classified as FERS chooses, upon learning of the proper retirement classification, to obtain a refund of contributions made to his or her account.

Under § 1605.3(b)(1), the employing agency must submit a separate negative adjustment record for each pay period involved. Each record must indicate the pay date for which the contribution was made, the amount of the contribution, the source(s) of the contribution, and the investment fund(s) to which the contribution was reported for investment by the employing agency. This information allows the TSP recordkeeper to verify that the contribution was in fact made and to calculate the investment gains or losses on the money for the period it was erroneously invested in the TSP. The calculation is done by tracking the monthly earnings of the investment fund(s) in which the erroneous contribution was invested, including consideration of how such contributions were reallocated among the investment funds as a result of any interfund transfer processed for the account during the relevant period of time.

As referred to in § 1605.3(b)(2), the Board has distributed to employing agencies detailed instructions concerning the submission of negative adjustment records. The Board may, from time to time, issue additional guidance or may change guidance that has been issued. When this occurs, the new information will be circulated to employing agencies with sufficient time for them to implement any changes to their payroll or other administrative systems that may be required by the new information. Employing agencies are required to comply with all such instructions, including providing any additional information those instructions may require.

Section 1605.3(c) provides rules for processing negative adjustment records. Most of the processing responsibility is placed upon the TSP recordkeeper. Upon receipt of negative adjustment records, the TSP recordkeeper must edit them to ensure compliance with established conventions and to ensure that the records can be successfully processed. As soon as the edit process is completed, all acceptable adjustment records are placed in approved status for processing. If that occurs by the second-to-last business day of a month, the records will be processed as of the end of that month. If they are not accepted until the last business day of a month, they will be processed as of the end of the following month. The TSP recordkeeper cannot guarantee how long the edit process will take, although

it frequently takes only one to two days if there are no problems with the data. In order to ensure prompt processing, employing agencies are advised to submit negative adjustment records as early as possible during a month.

Under § 1605.3(c)(2), the TSP recordkeeper will separately compute the earnings attributable to the contributions for each pay date and source of contributions. The TSP recordkeeper will also determine the investment fund(s) in which the money being removed is invested. This requires applying the monthly earnings allocation factors for the relevant investment fund(s), as well as tracking the location of the money through any interfund transfers that occur after the erroneous contributions. Subject to the rules set forth in § 1605.3(c)(3), money will be removed from the investment fund to which it has been traced.

In determining investment gains and losses for erroneous contributions submitted on a given pay date, each source of contributions is treated separately. That is, investment gains and losses for the different TSP investment funds within a source of contributions will be netted against each other, but net gains or losses for different sources of contributions will not be netted against each other. Any other treatment would be inconsistent with the different character of the funds attributable to the three sources of contributions. For example, employee contributions are eligible to be borrowed, whereas agency matching contributions are not. Thus, if gains on employee contributions were offset against losses on employer contributions, the participant would not have as much money available to be borrowed as without such netting. Similarly, because only agency automatic (1%) contributions (and attributable earnings) are subject to the vesting requirements of 5 U.S.C. 8432(g), netting gains or losses on those contributions against the other two sources would improperly state the amount of money subject to the vesting requirement.

For similar reasons, § 1605.3(c)(3)(ii) prohibits using money in one source of contributions to return funds to an agency in connection with a negative adjustment submitted for another source of contributions. For example, if a negative adjustment to employee contributions requires returning \$300 to the employing agency, and the participant only has \$200 of employee contributions in his or her account (e.g., because of a loan that reduced the balance of employee contributions to \$200), the additional \$100 will not be

returned to the employing agency from employer contributions. Rather, the negative adjustment to employee contributions will be deleted (i.e., not processed) and the employing agency may resubmit the negative adjustment record at a later time when the participant has sufficient employee contributions to cover it (e.g., due to loan repayments or new contributions).

In contrast to netting across sources of contributions, § 1605.3(c)(3)(iii) provides that within a source of contributions, gains and losses will be netted across the TSP investment funds. This is appropriate because such netting does not involve monies that are of a different character. The legal requirements applicable to all agency automatic (1%) contributions, for example, are the same regardless of the investment fund in which those monies are invested. If a negative adjustment to one source of contributions is tracked by the TSP recordkeeper to one investment fund, but there is not sufficient money in that investment fund to cover the entire adjustment, the money will be taken *pro rata* from the other investment funds. All of the money from the same source of contributions is considered to be of the same character.

Sections 1605.3(d) and (e) explain, separately for employee contributions and employer contributions, the rules for determining how much money is returned to the employing agency in connection with a negative adjustment record. Under § 1605.3(d)(1), if there is a net investment gain on an employee contribution, the employing agency receives the full face value of the negative adjustment. With one exception described in § 1605.9(a) (relating to employees ineligible to have an account in the TSP), the earnings on the employee contributions remain in the participant's account. Leaving the earnings in the account compensates the participant for the fact that he or she did not otherwise have use of the money that the employing agency erroneously contributed. The earnings cannot be paid out of the Plan to the participant at the time the negative adjustment record is processed, however. This is because such a payment, as opposed to the refund of the erroneous contributions themselves, would be a taxable distribution from the TSP that is not permitted under FERSA prior to the participant's separation from Federal service. When the participant separates, he or she may withdraw the earnings, along with any other sums in the account, under the normal rules for withdrawal from the TSP.

Section 1605.3 (d)(2) addresses investment losses on employee

contributions. The employing agency receives only the amount of the erroneous contribution minus the amount of the investment loss. However, the investment loss does not change the agency's responsibility to refund to the participant the full face amount of the erroneous contribution, where appropriate. The net effect is that the employing agency is required to absorb the investment loss on money that was only contributed to the TSP on account of the agency's error. It would be inequitable to require the participant to absorb the risk of loss on the money. The revised rule, which comports with current practice, effectively prevents the employing agency from putting a participant's money at risk without proper authorization.

Section 1605.3(d)(3) makes it clear that if an employing agency removes erroneous employee contributions, it must also submit negative adjustment records for any associated agency matching contributions. This is an extension of the general principle that no agency matching contributions may be made unless and until associated employee contributions are actually made. This principle cannot be circumvented by an employing agency's removing the employee contributions after agency matching contributions are made, and leaving the agency matching contributions in the TSP.

Section 1605.3(e) addresses removal of erroneous employer contributions from participants' accounts. Section 1605.3(e)(1) provides that erroneous employer contributions may only be returned to the employing agency if the negative adjustment record is processed within one year of the processing of the contribution. This rule, which is contained in the existing regulations, is based on guidance issued by the Internal Revenue Service. If more than one year elapses, the employing agency must still submit any appropriate negative adjustment records to remove erroneous contributions from the participant's account. However, in this case, instead of the employing agency's receiving a refund of the erroneous contributions, the amount of the erroneous employer contribution (plus or minus investment gains or losses) is removed from the account and used to offset TSP administrative expenses, thereby benefitting the rest of the TSP participants. In order to avoid this result, employing agencies must identify and remove erroneous employer contributions within one year of their submission.

Section 1605.3(e)(2) provides that if there is an investment gain on erroneous employer contributions that are to be

returned to the employing agency, the agency receives a refund of only the face value of the negative adjustment. The agency may not receive the benefit of the investment gain on the money. At the same time, the individual participant should not receive an earnings windfall due to the fortuity of an employing agency error. Thus, the earnings on erroneous employer contributions are removed from the account and used to offset TSP administrative expenses.

Under § 1605.3(e)(3), if there is an investment loss on the erroneous employer contributions that are either returned to the employing agency or removed from the account and used to offset TSP administrative expenses, the amount removed from the account will be the amount of the contribution less the investment loss. If the employing agency received the full amount of the erroneous contribution, then the amount of the loss would have to be made up out of the participant's money. The participant should not have to absorb an investment loss on employer money that was erroneously placed in his or her account.

The TSP recordkeeper has issued three TSP bulletins containing detailed procedures and information concerning the submission, processing, and accounting for negative adjustment records. Those bulletins, Nos. 90-22, 90-23, and 90-28, can be obtained from the Board or TSP recordkeeper upon request.

Section 1605.4 contains the rules for making up TSP contributions related to back pay awards or other retroactive pay adjustments. Section 1605.4(a) governs situations in which the participant was separated and subsequently reinstated with back pay. Under those circumstances, the participant could not have had a TSP contribution election in effect during the period of separation. Accordingly, under § 1605.4(a)(1), immediately upon reinstatement the employing agency must give the participant an opportunity to make a current TSP contribution election on Form TSP-1, regardless of whether the reinstatement occurs during a TSP open season or TSP Election Period.

Under § 1605.4(a)(1), the effective date of the current Form TSP-1 will be the first day of the first full pay period in the most recent TSP election period. If the participant is reinstated during a TSP open season but before the election period, he or she may also submit a Form TSP-1 that will become effective the first day of the first full pay period in the following election period. For example, if these rules had been in effect in 1995 and a participant was

reinstated on January 2, 1995, the effective date of the current Form TSP-1 would have been January 15, 1995 (the first day of the first full pay period in the most recent election period). If the participant had been reinstated on March 22, 1995, the effective date of the current Form TSP-1 would have been January 15, 1995. If a participant had been reinstated on May 20, 1995, the effective date of the current Form TSP-1 would have been January 15, 1995. In addition, this participant could have submitted another Form TSP-1 to become effective on July 3, 1995 (the first day of the first full pay period in the following election period).

Under § 1605.4(a)(2), the participant has several choices concerning makeup contributions for the period of erroneous separation. If he or she had a contribution election on file at the time of separation, the contribution election will be reinstated for the period of separation unless the participant affirmatively elects not to have those contributions made up. Alternatively, the participant may also affirmatively elect not to make up those contributions that would have been made from the date of separation through the end of the next TSP open season after separation. Finally, the participant may, for any open season after the one during which the separation occurred, elect any amount of makeup contributions that he or she would have been eligible to make had the separation not occurred.

As provided in § 1605.4(a)(3), the decisions made by the participant after returning do not include decisions concerning the investment funds in which the money would have been invested had the separation not occurred, nor can the participant choose to receive lost earnings for the period of separation based on the investment funds elected on a Form TSP-1 that was in effect at the time of separation. The effectiveness of that election came to an end when the participant separated, even though the separation was involuntary and ultimately found to have been erroneous. Any decisions made after the participant was reinstated concerning the investment funds to use in the lost earnings calculation would be in direct violation of the principles set forth in Part 1606 (which applies to back pay awards and other retroactive pay adjustments, 5 CFR 1606.4(b)), in particular 5 CFR § 1606.11(c).

Thus, § 1605.4(a)(3) provides that all lost earnings will be calculated at the G Fund rate of return up to the date of any interfund transfer processed during the period of separation. From the effective date of the interfund transfer forward,

the amount of the earnings will be calculated based on the allocations elected on the interfund transfer request. The earnings (and related contributions) will also be moved among the investment funds to reflect the funds in which they would have been invested had the interfund transfer election been applied to them.

Under § 1605.4(b), if the participant remained employed by the Federal Government for the period covered by the back pay award or other retroactive pay adjustment, the participant is bound by the contribution election that was in effect during that period. Thus, if the participant received less pay as a result of the action that led to the back pay award or other retroactive pay adjustment, or was otherwise limited in his or her ability to make the contributions that had been previously elected, the participant must make up the missed contributions. In this situation, because any investment elections made by the participant would have remained in effect, the lost earnings are calculated based on the investment elections made by the participant for the applicable period. The employing agency is also responsible for making any agency matching contributions and agency automatic (1%) contributions that would have been required had the action that led to the payment of back pay or of another type of retroactive pay adjustment not occurred.

Section 1605.4(c)(1) provides that under both § 1605.4(a) and § 1605.4(b), any makeup employee contributions associated with the back pay award or other retroactive pay adjustment must be withheld from the award or adjustment and contributed to the participant's TSP account by the employing agency. It is not permissible for the employing agency to pay the back pay award or other retroactive pay adjustment to the participant and then accept a check or other form of payment from the participant for contribution to the TSP account. If the additional contributions associated with the back pay award or other retroactive pay adjustment would cause, or are anticipated to cause, a participant to exceed the Internal Revenue Code annual contribution limits, they may be carried forward (along with associated agency matching contributions) as makeup contributions to be deducted from pay in subsequent years.

Section 1605.4(c)(2)(i) requires employing agencies to submit agency matching contributions and agency automatic (1%) contributions associated with a back pay award or other retroactive pay adjustment.

Section 1605.4(c)(2)(ii) provides rules concerning the submission and processing of contributions associated with back pay awards and other retroactive pay adjustments. Although lost earnings on contributions associated with a back pay award or other retroactive pay adjustment are calculated based on the investment election in effect during the relevant period, the contributions must be reported by the employing agency for investment based upon the participant's investment allocation election in effect at the time of payment of the back pay award or other retroactive pay adjustment, rather than to the investment fund(s) previously elected. If there is no current election, the contributions must be reported by the employing agency for investment in the G Fund.

Section 1605.4(e) provides an opportunity for participants to restore funds to their TSP accounts if the separation upon which the withdrawal of the funds was based is reversed. This opportunity cannot be exercised by participants who have elected to receive annuities. If a participant wishes to restore his or her account, he or she must so notify the Board within 90 days of reinstatement or lose that right.

Section 1605.5 governs employing agency misclassifications of retirement coverage. CSRS participants are not permitted to make contributions in excess of 5%. Under § 1605.5(a)(1), if a CSRS participant is erroneously classified as FERS, the employing agency must remove any employee contributions in excess of 5% of basic pay from the participant's account by submitting negative adjustment records in accordance with § 1605.3. In addition, it is recognized that for FERS employees the prospect of receiving agency matching contributions is often a significant inducement to make contributions to the TSP. A CSRS participant erroneously classified as FERS would have made any decision to contribute to the TSP with the expectation of receiving agency matching contributions on the first 5% of basic pay. When those agency contributions are removed from the account, it would be inequitable to deny the participant the option of removing all of the employee contributions. Accordingly, § 1605.5(a) provides that option.

Section 1605.5(a)(2) describes a routine procedure pursuant to which the TSP recordkeeper will remove employer contributions from a previously misclassified participant's account once the account no longer has employer contributions that have been

in the account for less than one year. The employing agency may continue to submit negative adjustment records as long as there are contributions that can be returned to the employing agency under the one-year rule contained in § 1605.3(e)(1). Once all of the employer contributions have been in the account for one year or more, the employing agency cannot receive a refund of any of those contributions; submission of a negative adjustment record would cause the employer contributions (and associated earnings) to be removed from the account and be used to offset TSP administrative expenses. The TSP record keeper will, on its own initiative, remove the remaining employer contributions and associated earnings from the account.

In contrast to a CSRS participant misclassified as FERS, when a FERS participant is erroneously classified as CSRS, any election to contribute would have been made by the participant with the knowledge that he or she will receive no agency contributions. If the participant wished to contribute without receiving agency contributions, it follows that the participant would also have contributed at least the same amount if the added inducement of agency contributions were present. Thus, § 1605.5(b) does not allow such participants to elect to remove contributions made while misclassified as CSRS. However, because the participant has learned for the first time that the added inducement of agency contributions is available, the participant must be provided, as set forth in § 1605.5(b), an opportunity to elect makeup employee contributions in addition to those, if any, that were elected while misclassified as CSRS. Thus, for example, if the participant contributed 2% of basic pay while misclassified as CSRS, he or she must be provided the opportunity to make up an additional 8% that he or she would have been able to contribute if properly classified as FERS. If the participant did not contribute at all while misclassified, he or she may make up the full 10% contribution. The employing agency must promptly make, in a lump sum, all agency matching contributions attributable to any employee contributions that were made during the period of misclassification. In addition, the employing agency must, in accordance with § 1605.2(c)(7), make any applicable agency matching contributions attributable to the participant's makeup contributions, if any. Regardless of whether any employee contributions are made up, the employing agency must also

contribute, in a lump sum, the appropriate agency automatic (1%) contributions.

Section 1605.6 adopts, without significant substantive change, the provisions of existing § 1605.8 concerning participants' claims for correction filed against their employing agencies. The rules for filing claims against the Board or the TSP recordkeeper are in a separate section of the proposed revision, § 1605.8.

One change contained in the proposed revision is elimination of existing § 1605.8(a)(1) relating to employing agencies' referral of participants' claims to the Board. Experience has proven this provision to be unnecessary. As a practical matter, participants are able to discern whether a claim is properly filed with the employing agency or the Board. In those rare cases in which the participant is not sure, he or she may wish to file a claim with both the employing agency and the Board. It does not appear that in such cases there is a substantial risk of inconsistent rulings that would leave the participant without relief, because the Board and the employing agency should consult to determine which, if either, is responsible for any error that may have occurred. Moreover, any inconsistent rulings would ultimately be subject to judicial review under 5 U.S.C. 8477.

Another change to the claim procedures is the provision in § 1605.6(a)(1) that the 30-day period for the employing agency to issue an initial decision on the participant's claim may be extended if the employing agency provides the participant with good cause for needing more time. Experience has shown that a full investigation of potential errors may legitimately take longer than 30 days.

Similarly, experience has shown that review of an employing agency's denial of a participant's claim can legitimately take longer than the 30 days provided in the regulations. Accordingly, § 1605.6(a)(3) also adopts a good cause provision for extending the time period for a decision.

As under the existing regulations, the burden to correct administrative errors lies, in the first instance, with the employing agency. If correction is not forthcoming, the participant may, within the time limits set forth under § 1605.6(b) of the proposed revision, file a claim with his or her employing agency. If the participant fails to do so, he or she has not exhausted his or her administrative remedy and, therefore, is not eligible to file suit to compel the employing agency to correct the alleged error. However, regardless of whether

the participant files a timely claim for correction, the employing agency may, within its discretion and otherwise in accordance with this part, correct any administrative errors it determines to have occurred. Experience has shown that most employing agencies, in a good faith effort to ensure that their employees receive all of the retirement benefits to which they are entitled, are willing to correct their errors, even after the time for filing a claim has passed. Although employing agencies are encouraged to continue to do so, participants are urged to be diligent in reviewing their earnings and leave statements and their semiannual TSP Participant Statements to promptly identify any errors, and to protect their rights by filing timely claims when necessary.

Section 1605.6(b)(1)(ii) clarifies when the one-year period for submitting a claim commences with respect to retirement code classifications. In particular, the proposed revision states explicitly that mere notice to a participant of his or her retirement code classification is not sufficient to trigger the one-year claim period if that classification turns out to be erroneous. For many participants, the determination of proper retirement classification requires application of a complex set of rules. The Board has determined that it would be unjust to presume that all employees are capable of making this determination and therefore to hold them responsible for failing to immediately identify an erroneous classification. Similarly the Board is concerned that all participants may not appreciate the potential impact of a retirement classification change on their TSP accounts.

The rule adopted requires some other information that would indicate to the participant that he or she has been erroneously classified. In appropriate circumstances, the employing agency may determine that notice of a change in retirement classification constitutes sufficient notice that the earlier classification was erroneous. In addition, the proposed rule requires that in order to trigger the one-year time limit the employing agency must provide the participant with a written notice that specifically mentions the TSP and that the retirement code classification could have implications for the participant's TSP account. Of greatest concern is that the employing agency should advise a FERS employee who was misclassified as CSRS that the employee should consider making makeup contributions for the period of misclassification. Unless and until the

appropriate notice is provided, the one-year time limit will not commence.

#### *Subpart C—Board or TSP Recordkeeper Errors*

Under § 1605.5 of the existing regulations, the only Board or TSP recordkeeper error addressed is erroneous posting of contributions. Section 1605.7 of the proposed revision addresses a broader range of potential Board or TSP recordkeeper error. The provisions of this section are derived from the experience of the Board in administering the TSP.

Section 1605.7(a) addresses situations in which a Board or TSP recordkeeper error causes a participant's account to receive credit for less earnings than it would have received had the error not occurred. Such lost earnings should not be confused with agency-paid lost earnings under Part 1606. Paragraph (a)(1) sets forth the general rule that the account should be made whole by crediting to it the difference between the credit the account received and that which it would have received had the error not occurred. Paragraph (a)(1) also describes the most common situations giving rise to lost earnings. As stated in the text, however, the situations described in paragraphs (a)(1)(i)–(iii) do not constitute an exhaustive list of the circumstances warranting payment of lost earnings attributable to Board or TSP recordkeeper error.

Section 1605.7(a)(1)(i) requires the TSP to calculate and post lost earnings (positive or negative, as the case may be) when Board or TSP recordkeeper error causes a delay in crediting money to a participant's account. Although such errors are relatively rare, given the large volume of transactions processed by the Plan, some situations have occurred more frequently than others. One is where there is a delay in crediting contributions to a participant's account. Most often this occurs because of a delay in processing an employing agency's payroll submission. Where the delay does not prevent the payroll tape from being processed in the month during which it should be processed, no lost earnings correction is required because, under the Board's earnings allocation algorithm, participants receive the same credit for the month of contribution regardless of when during the month the contributions are credited. Where the error does cause a delay that continues into one or more months after the one during which the contributions should have been credited, the participants should be made whole. Most of these cases affect more than one participant; all participants whose contributions are on

a tape that was delayed must be credited (charged) with additional investment earnings (losses), depending on the investment experience of the funds involved. If the earnings are calculated to be positive (due to investment gains), then the additional amounts posted to the accounts of the affected participants are, in effect, charged to the rest of the TSP participants through the earnings allocation process. Conversely, if there are investment losses, the amounts deducted from the affected participants' accounts are, in effect, credited to the rest of the TSP participants through the earnings allocation process.

Other possible scenarios covered by § 1605.7(a)(1)(i) are delays in crediting loan payments or loan prepayments, or delays in reinvesting returned checks.

Section 1605.7(a)(1)(ii) covers situations in which loan or withdrawal checks are improperly issued. The error can take several forms, such as issuance to an address different from that provided to the TSP recordkeeper, issuance of a payment from the wrong account, or premature payment of a withdrawal. In all such cases, the participant ceases to receive credit for earnings as of the end of the month for which the withdrawal is made effective. The participant does not again receive full credit for earnings on the improperly disbursed funds until the month after the money is redeposited in his or her account. Thus, the Plan must make up all earnings for the period of disinvestment.

Errors addressed under paragraph (a)(1)(ii) are, however, subject to the limitation contained in paragraph (a)(2). That is, if a participant receives funds that should not have been disbursed from his or her TSP account, he or she must promptly call the error to the Board's attention and return the funds for redeposit to the account. If the participant needlessly delays in returning the funds, or invests the funds before returning them to the TSP, then the participant may be deemed to have had the use of the funds during this period. If that occurs, the participant's account will not receive lost earnings for the period that he or she had use of the money. In general, determinations concerning whether a participant has had the use of money under paragraph (a)(2) must be made on a case-by-case basis, after an evaluation of all of the specific facts and circumstances. A standard of reasonableness will be applied by the Board.

Section 1605.7(a)(1)(iii) provides for payment of lost earnings in cases where a Board or TSP recordkeeper error causes a participant's account to receive earnings based on an incorrect

investment fund allocation. This infrequent occurrence can take place when the TSP recordkeeper fails to process an interfund transfer request or processes it incorrectly. As described in paragraph (a)(3), participants affected by this type of error will be given a choice whether they wish to have it corrected. If so, the correction will involve calculating and crediting lost earnings as well as reallocating the account balance as it would have been had the error not occurred. A participant cannot choose the former without the latter, or *vice versa*. Section 1605.7(a)(4) establishes the investment funds for which the lost earnings calculations should be made. If the participant continued to have a TSP account during the period of the error, or would have had an account if the error had not occurred, then the rates of return the account would have earned during the relevant period will be used. For example, assume that separated Participant A requests a withdrawal, but the recordkeeper erroneously disburses Participant B's account as a result of a data entry error. Participant B promptly returns the erroneous disbursement, but his account loses earnings for a month. If Participant B had his entire account invested in the C Fund just prior to the erroneous disbursement, then he will receive lost earnings based on the C Fund rates of return. The same would be true if the erroneous disbursement from Participant B's account was a loan.

In contrast, assume that separated Participant X requests a withdrawal of his entire account balance as of the end of November 1996. The entire account is properly disbursed as of the end of November 1996, but the TSP recordkeeper erroneously causes the check to be mailed to an outdated address which had been properly changed by the participant. The check is lost and the funds are uninvested for three months, at which time the account is recredited with the amount that was disbursed in November 1996. Because the account would properly have been closed as of the end of November 1996, the lost earnings will be calculated at the G Fund rate of return.

Finally, assume Participant L has an outstanding loan of \$5,000 and decides to prepay it. The certified prepayment check is received in early October 1996 but due to TSP recordkeeper error is not credited to the account until December 1996. Since Participant L continued to have a TSP account during the period of the erroneous disinvestment, the lost earnings will be credited based on the investment funds in which the money would have been invested had the prepayment been properly credited in

October. These rules are designed to approximate the earnings that the participant would have received if the error had not occurred. For periods when the TSP account would have been closed even if the error had not occurred, applying the G Fund rate provides the (former) participant with a reasonable positive rate of interest. It is not practicable for the Board to speculate on the earnings which the participant would have received on the money outside the Plan.

Section 1605.7(b) provides for reversal of erroneous declarations of taxable loan distributions.

Section 1605.7(c) makes explicit that the Executive Director has the discretion to make other corrections not specifically addressed elsewhere in § 1605.7. The specific types of corrections listed in § 1605.7 are not exclusive, and Board or TSP recordkeeper errors other than those addressed may properly give rise to lost earnings or other forms of corrective relief. Moreover, even if no Board or TSP recordkeeper error is involved, the Executive Director may determine that payment of lost earnings or other corrective relief is warranted under the circumstances. Such determinations must be made by the Executive Director on a case-by-case basis. In making these determinations, the Executive Director must comply with his fiduciary responsibilities under FERSA to all of the participants of the TSP. Thus, the Executive Director will consider factors such as the administrative cost of implementing the correction, the cost to the TSP as a whole of paying any lost earnings, and the harm to the affected participant if no correction is made.

Section 1605.8 contains the provisions for filing claims with respect to Board or TSP recordkeeper error. The primary change from the existing regulations is to adopt a more informal process than that originally contemplated. This decision is based on the Board's experience in handling claims for correction. It has been determined that a more informal, flexible process is beneficial to all parties concerned.

Under § 1605.8, claims may be made either to the TSP recordkeeper or to the Board. The proposed revisions provide flexibility regarding which of those parties will process the claim. If the claim is submitted to the TSP recordkeeper, it may either be processed by the recordkeeper or sent to the Board to be processed. If the latter, or if the claim is initially submitted to the Board, the decision of the Board is final. If an initial decision is issued by the TSP recordkeeper, the participant may

request review by the Board of any denial of all or any part of the claim. The decision by the Board on review is final.

#### *Subpart D—Miscellaneous Provisions*

Section 1605.9 contains miscellaneous provisions. Paragraph (a) addresses residual earnings. If all employee contributions to a participant's account are removed, but earnings on those contributions remain in the account under the rules of this part, the earnings will not necessarily be removed from the account merely because there are no longer any employee contributions. This will usually occur when an agency erroneously contributes money to the account of a CSRS participant who is eligible to contribute to the TSP but has not elected to do so. When the contributions are removed, the earnings on the employee contributions will remain in the account. Such a participant will, like all other TSP participants, be entitled to withdraw his or her account balance in full upon separating from the Federal Government under the same rules that apply to withdrawal of other money in a participant's account. In contrast, an employee who was never eligible to contribute to the TSP is not, by law, entitled to have a TSP account or to receive benefits from the TSP. If residual earnings remain in the account of such an employee after all contributions have been removed, they will be removed from the account and applied against TSP administrative expenses. Any remedy the employee may wish to pursue would be against his or her employing agency and would not involve the Board, which is not in a position to provide any relief to the employee.

Paragraph (b) provides for belated elections to contribute to the TSP because of circumstances beyond the participant's control (but not attributable to employing agency error). This belated election is currently found at 5 CFR 1605.2(b)(1) of the existing regulations. The proposed revision adopts the rule of that provision without substantive change. No makeup contributions are permitted under the circumstances addressed in this provision.

Paragraph (c) contains a cross-reference to Part 1606 for correcting investment in an incorrect investment fund(s). Some employing agencies might be inclined to correct such an error by submitting a negative adjustment record to remove the money from the erroneous investment fund and then recontributing the money to the correct

investment fund. However, the only permissible correction is through Part 1606.

Paragraph (d) provides addresses for the Board and TSP recordkeeper.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

#### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Public Law 104-4, 109 Stat. 48, 64, the effect of this regulation on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by any State, local, or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64-65, is not required.

#### Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA), as amended by the Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121, tit. II, 110 Stat. 847, 857-875 (5 U.S.C. 801(a)(1)(A)), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to the publication of this rule in today's Federal Register. This rule is not a "major rule" as defined in section 804(2) of the APA as amended (5 U.S.C. 804(2)).

#### List of Subjects in 5 CFR Part 1605

Administrative practice and procedure, Employee benefit plan, Government employees, Pensions, Retirement.

Roger W. Mehle,

*Executive Director, Federal Retirement Thrift Investment Board.*

For the reasons set out in the preamble, Part 1605 of chapter VI, Title 5 of the Code of Federal Regulations is proposed to be revised to read as follows:

## PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

### Subpart A—Definitions

Sec.

1605.1 Definitions.

### Subpart B—Employing Agency Errors

1605.2 Makeup of missed or insufficient contributions.

1605.3 Removal of erroneous contributions.

1605.4 Back pay awards and other retroactive pay adjustments.

1605.5 Misclassification of retirement coverage.

1605.6 Procedures for claims against employing agencies; time limitations.

### Subpart C—Board or TSP Recordkeeper Errors

1605.7 Plan-paid lost earnings and other corrections.

1605.8 Claims for correction of Board or TSP Recordkeeper errors; time limitations.

### Subpart D—Miscellaneous Provisions

1605.9 Miscellaneous provisions.

Authority: 5 U.S.C. 8351 and 8474.

### Subpart A—Definitions

#### § 1605.1 Definitions.

The following definitions apply for purposes of this part:

*Account or TSP account* means a participant's account in the Thrift Savings Plan;

*Agency automatic (1%) contributions* means any contributions made under 5 U.S.C. 8432(c)(1) or (c)(3);

*Agency contributions* means agency automatic (1%) contributions and agency matching contributions;

*Agency matching contributions* means any contributions made under 5 U.S.C. 8432(c)(2);

*Basic pay* means basic pay as defined in 5 U.S.C. 8431(3), and it is the rate of pay used in computing any amount the individual is required to contribute to the Civil Service Retirement and Disability Fund as a condition for participating in the CSRS or the FERS, as the case may be;

*Board* means the Federal Retirement Thrift Investment Board;

*Board error* means any act or omission by the Board that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants (including, but not limited to, TSP communications materials and other publications);

*C Fund* means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C);

*CSRS* means the Civil Service Retirement System established by Subchapter III of chapter 83 of title 5,

U.S.C., and any equivalent Federal Government retirement plan;

*CSRS employee or CSRS participant* means any employee, member, or participant covered by CSRS, including employees authorized to contribute to the Thrift Savings Plan under 5 U.S.C. 8351, or 5 U.S.C. 8440a through 8440d;

*Employee contributions* means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8432(a), 5 U.S.C. 8351 or 5 U.S.C. 8440a through 8440d;

*Employer contributions* means agency automatic (1%) contributions and agency matching contributions;

*Employing agency* means any entity that provides or has provided pay to an individual, thereby incurring responsibility for submitting to the Thrift Savings Fund contributions made by or on behalf of that individual; any entity responsible for submitting TSP loan payments on behalf of an individual; or any other entity that has employed an individual and has provided information that affects or has affected that individual's TSP account;

*Employing agency error* means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board or TSP recordkeeper;

*Executive Director* means the Executive Director of the Board under 5 U.S.C. 8474;

*F Fund* means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B);

*FERS* means the Federal Employees' Retirement System established by chapter 84 of title 5, U.S.C., and any equivalent Federal Government retirement plans;

*FERS employee or FERS participant* means any employee, member, or participant covered by FERS;

*G Fund* means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A);

*Interfund transfer* means the movement of all or a portion of a participant's existing account balance among the TSP investment funds;

*Investment fund* means the C Fund, the F Fund, the G Fund, and any other TSP investment funds created subsequent to [the effective date of the final regulations];

*Investment fund election* means a choice by a participant concerning how TSP contributions shall be allocated among the TSP investment funds;

*Lost earnings record* means a data record containing information enabling the TSP system to compute lost earnings

and to determine the investment fund in which money would have been invested had an error not occurred;

*Makeup contributions* means employee or employer contributions that are made for an earlier period during which they would have been made but for an employing agency error;

*Negative adjustment record* means a data record submitted by an employing agency to remove money from a participant's account;

*Open season* means the period during which participants may choose to begin making contributions to the TSP, to change or discontinue the amount currently being contributed to the TSP (without losing the right to recommence contributions the next open season), or to allocate prospective contributions to the TSP among the investment funds;

*Participant* means any person with an account in the TSP, or who would have an account in the TSP but for an employing agency error;

*Recordkeeper error* means any act or omission by the TSP recordkeeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants (including, but not limited to, TSP communications materials and other publications);

*Source of contributions* means either employee contributions, agency automatic (1%) contributions, or agency matching contributions;

*Thrift Savings Plan, TSP, or Plan* means the Federal Retirement Thrift Savings Plan established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99-335, 100 Stat. 514, which has been codified, as amended, primarily at 5 U.S.C. 8401-8479; and

*TSP Recordkeeper* means the entity that is engaged by the Board to perform recordkeeping services for the TSP. As of the effective date of these regulations, the TSP recordkeeper is the National Finance Center, Office of the Chief Financial Officer, United States Department of Agriculture, located in New Orleans, Louisiana.

## Subpart B—Employing Agency Errors

### § 1605.2 Makeup of missed or insufficient contributions.

(a) *Applicability.* This section applies whenever, as the result of an employing agency error, a participant does not receive all of the contributions to his or her account to which the participant is entitled. This includes, but is not limited to, situations in which an employing agency error prevents a participant from making an election to

contribute to the TSP, the employing agency erroneously fails to implement a contribution election properly submitted by a participant, the employing agency fails to make agency automatic (1%) contributions or agency matching contributions that it is required to make, or the employing agency erroneously contributes less to the TSP than it would have contributed had the error not occurred. The corrections required by this section must be made in accordance with this part and procedures provided to employing agencies, from time to time, by the Board or the TSP recordkeeper in bulletins or other guidance. It is the responsibility of the employing agency to determine whether it has made an error that entitles a participant to correction under this section.

(b) *Missed employer contributions.* If an employing agency has failed to make agency automatic (1%) contributions that are required to be made under 5 U.S.C. 8432(c)(1)(A), agency matching contributions that are required to be made under 5 U.S.C. 8432(c)(2) based on employee contributions that have been made, or contributions required to be made under 5 U.S.C. 8432(c)(3), then:

(1) The employing agency must promptly submit, in a lump sum, all such missed contributions to the TSP recordkeeper on behalf of the affected participant. Makeup contributions must be allocated by the employing agency among the TSP investment fund(s) using the participant's current investment fund election at the time the makeup contributions are made. If no such election is on file, the contributions will be reported by the employing agency for investment in the G Fund.

(2) If applicable, the employing agency must also submit any lost earnings records required under 5 CFR Part 1606.

(c) *Missed employee contributions.* Within 30 days of receiving information from his or her employing agency that indicates that the employing agency acknowledges that an error has occurred that has caused less employee contributions to be made to the participant's account than would have been made had the error not occurred, a participant may elect to establish a schedule of makeup contributions to replace the missed contributions through future payroll deductions, in addition to any regular TSP contributions that the participant is entitled to make. The following rules apply to makeup contributions:

(1) The schedule of makeup contributions elected by the participant must establish the amount of contributions to be made each pay

period over the duration of the schedule. The contribution amount per pay period may vary during the course of the schedule, but the amounts to be contributed should be established when the schedule is created. The schedule may not exceed four times the number of pay periods over which the errors occurred.

(2) The employing agency may, but need not, set a ceiling on the length of the schedule of makeup contributions which is less than four times the number of pay periods over which the errors being corrected occurred. The ceiling may not, however, be less than twice the number of pay periods over which the errors being corrected occurred.

(3) The employing agency must implement the schedule of makeup contributions as soon as practicable after the participant has made an election to implement a makeup schedule.

(4) Makeup contributions will not be considered in applying the maximum amount per pay period that a participant is permitted to contribute to the TSP (e.g., 5% of basic pay for CSRS participants, 10% of basic pay for FERS participants), but will be included for purposes of applying the annual limits contained in 26 U.S.C. 402(g)(1) and 26 U.S.C. 415.

(5) A participant's regular TSP contributions will always take precedence over makeup contributions. Thus, when establishing a schedule of makeup contributions, the employing agency must review any schedule proposed by the affected participant as well as the participant's current TSP contribution election, to determine whether the makeup contributions, when combined with regular TSP contributions, are expected to exceed the annual limits contained in 26 U.S.C. 402(g)(1) and 415. If so, the participant may elect to have the schedule of makeup contributions established in such a manner that the payments will, at an appropriate time, be suspended until the makeup contributions can be made within the annual limits. In any event, a schedule of makeup contributions may be suspended at any time in order to avoid a situation in which the participant is unable to make regular TSP contributions because of the annual limits. Similarly, a schedule of makeup contributions may be suspended if a participant has insufficient net pay to permit the makeup contributions. If a schedule of makeup contributions is suspended because of the annual limits or because of insufficient net pay, the period of suspension will not be counted against

the maximum number of pay periods the participant has to complete the schedule of makeup contributions.

(6) A participant may elect to terminate a schedule of makeup contributions at any time, but may not elect to make partial payments under the schedule. Any such termination is irrevocable. If a participant separates from employment that makes the participant eligible to contribute to the TSP, the participant may elect to accelerate the payment schedule by a lump sum contribution from his or her final paycheck. No contributions may be made other than by payroll deduction from pay that constitutes basic pay.

(7) To the extent a participant makes up missed employee contributions, the employing agency must contribute any agency matching contributions that would have been made had the employing agency error that caused the missed employee contributions not been made. The agency matching contributions must be made in installments over the course of the schedule of makeup contributions. The participant may not receive matching contributions associated with any employee contributions that are not made up. If the makeup contributions are suspended in accordance with paragraph (c)(5) of this section, the payment of agency matching contributions must also be suspended.

(8) Makeup contributions must be reported by the employing agency for investment among the TSP investment fund(s) using the participant's current investment fund election at the time the makeup contributions are made. If no such election is on file, the contributions must be reported by the employing agency for investment in the G Fund.

(9) Where a participant has transferred to a different employing agency from the one at which the participant was employed at the time of the missed contributions, it remains the responsibility of the former employing agency to determine whether an employing agency error is responsible for the missed contributions. If it is determined that such an error has occurred, the current agency must take any necessary steps to correct the error. The current agency may seek reimbursement from the former agency of any amount that would have been paid by the former agency had the error not occurred.

(10) Makeup employee contributions may be made only by payroll deduction from pay that constitutes basic pay. Contributions by check, money order, cash, or other form of payment, directly from the participant to the TSP, or from

the participant to the employing agency for deposit to the TSP, are not permitted.

(11) If applicable, the employing agency must submit any lost earnings records required under 5 CFR Part 1606.

#### **§ 1605.3 Removal of erroneous contributions.**

(a) *Applicability.* This section applies whenever, as a result of an employing agency error, a TSP account contains money that should not have been contributed to the account and which, therefore, must be removed from the account. This includes, but is not limited to, situations in which, because of an employing agency error, employee contributions in excess of those elected by a participant are contributed to the participant's account, employee contributions (and any associated agency matching contributions) are made on behalf of a participant who did not elect to have any contributions made, excess employer contributions are made to a participant's account, or employee contributions are made in excess of the amount permissible because of an improper retirement classification that is subsequently corrected (e.g., a CSRS employee is permitted to make contributions in excess of 5% of basic pay during a temporary misclassification as FERS).

(b) *Negative adjustment records.* (1) In order to remove money from a participant's account, the employing agency must submit, for each pay date involved, a negative adjustment record indicating the amount of the contribution being removed, the pay date for which it was made, the source(s) of the contributions involved (i.e., employee contributions, agency automatic (1%) contributions or agency matching contributions), and the investment fund or funds to which the erroneous contribution was made. A negative adjustment record may be for all or a part of the contributions made for the applicable pay date, investment fund and source of contributions, but for each investment fund and source of contributions the negative adjustment may not exceed the amount of contributions made for that pay date.

(2) Negative adjustment records must be submitted in accordance with this part and with procedures provided to employing agencies from time to time by the Board or the TSP recordkeeper in bulletins or other guidance. Negative adjustment records must also include any additional information required in any such bulletins or other guidance.

(c) *Processing negative adjustment records.* Negative adjustment records

will be processed in accordance with the following rules:

(1) Negative adjustment records received and accepted by the TSP recordkeeper by the second-to-last business day of a month will be processed effective as of the end of that month. Negative adjustment records accepted by the TSP recordkeeper on the last business day of a month will be processed effective as of the end of the following month.

(2) When negative adjustment records are processed, the TSP recordkeeper will determine separately, for each pay date and source of contributions involved, the amount of any investment gains or losses on the money the agency seeks to remove from the account and the investment fund or funds in which that money is currently invested. In making these determinations, investment gains and losses from the different TSP investment funds will be netted against each other. Investment gains and losses for different sources of contributions will be treated separately; gains and losses for different sources of contributions will not be netted against each other. The TSP recordkeeper will take into consideration any interfund transfers made effective on or after the date on which the erroneous contribution was processed.

(3) (i) Multiple negative adjustment records in the same processing cycle will be processed in the order of the applicable pay dates, starting with the earliest pay date.

(ii) If the participant's account does not have sufficient funds in the applicable source of contributions to pay the amount of a negative adjustment, the adjustment to that source of contributions will not be processed. Funds may not be taken from another source of contributions to cover the negative adjustment. The employing agency may, at a later date, resubmit the record that was not processed. It will be processed if, at that time, there are sufficient funds for the applicable source of contributions.

(iii) If there are sufficient funds in the applicable source of contributions to pay the amount required by a negative adjustment record, but any of the investment funds does not have sufficient money to pay the portion that is attributable to that investment fund (e.g., because of a loan), then the amount required will be removed from the other investment fund(s), pro rata, based on the participant's total account balance in each investment fund for that source of contributions.

(d) *Employee contributions.* The following rules apply to removal of

employee contributions from a participant's account:

(1) If there is a net investment gain on the erroneous employee contribution made for a pay date, then the full amount of the erroneous contribution will be returned to the employing agency. Subject to § 1605.9(a), the investment earnings on the erroneous contribution will remain in the participant's account.

(2) If there is a net investment loss on the erroneous employee contribution made for a pay date, then the employing agency will receive only the amount of the erroneous contribution reduced by the investment loss. However, the investment loss does not affect the employing agency's obligation to refund to the participant the full amount of the erroneous contribution.

(3) If an employing agency removes erroneous employee contributions from a participant's account, it must also remove, under paragraph (e) of this section, any associated agency matching contributions.

(e) *Employer contributions.* The following rules apply to removal of employer contributions from a participant's account:

(1) Employer contributions will only be returned to the employing agency if the negative adjustment record submitted to remove the contributions is processed within one year of the date the contribution was processed. If more than one year has elapsed when the negative adjustment record is processed, the amount of the employer contribution plus (or minus) any investment gains (or losses) will be removed from the participant's account and used to offset TSP administrative expenses rather than returned to the employing agency. The employing agency's obligation to submit negative adjustment records to remove erroneous contributions from a participant's account is not affected by whether the contribution has been in the account for more or less than one year at the time the negative adjustment record is to be processed.

(2) Subject to paragraph (e)(1) of this section, if there is a net investment gain within a source of contributions for an erroneous employer contribution, then the employing agency will receive the full amount of the negative adjustment submitted. The earnings attributable to the erroneous contributions in the applicable source of contributions will be removed from the participant's account and used to offset TSP administrative expenses.

(3) Subject to paragraph (e)(1) of this section, if there is a net investment loss within a source of contributions for an

erroneous employer contribution, then the employing agency will receive only the amount of the erroneous contribution reduced by the investment loss.

**§ 1605.4 Back pay awards and other retroactive pay adjustments.**

(a) *Participant not employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was separated from Government employment:

(1) If the participant is reinstated to Government employment, then immediately upon reinstatement the employing agency must give the participant the opportunity to submit a contribution election form (Form TSP-1) to make current contributions. The effective date of the form will be the first day of the first full pay period in the most recent TSP election period. If the participant is reinstated during a TSP open season but before the election period, he or she can also submit an election form that will become effective the first day of the first full pay period in the following election period.

(2) The participant must be given the following options for electing makeup contributions:

(i) If the participant had a valid contribution election form (Form TSP-1) on file when he or she separated, upon the participant's reinstatement to Government employment that election form will be reinstated for purposes of makeup contributions, unless a new contribution election form is submitted to terminate all makeup contributions or those contributions that would have been made from the date of separation through the end of the open season that occurred immediately after the separation.

(ii) Instead of making contributions for the period of separation under the reinstated contribution election form, the participant may submit a new election form for any open season that occurred during the period of separation. However, the investment allocation on each Form TSP-1 for the period of separation must be the same as the investment allocation on the current Form TSP-1.

(3) Lost earnings will be calculated and credited to the participant's account, in accordance with 5 CFR part 1606, using the rates of return for the G Fund, unless the participant submitted one or more interfund transfer requests during the period of separation. In the case of interfund transfer requests, the earnings will be calculated using the G Fund rates of return until the first

interfund transfer was processed. The contribution that is subject to lost earnings will be moved to the investment fund(s) the participant requested and lost earnings will be calculated based on the earnings for that fund(s). The amount of lost earnings calculated will be posted to the investment fund(s) to which the contribution was moved by the interfund transfer. If there were no interfund transfers processed during the lost earnings calculation period, the amount of lost earnings calculated will be posted to the employee's G Fund account.

(b) *Participant employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was not separated from Government employment:

(1) The participant will only be entitled to makeup contributions for the period covered by the back pay award or retroactive pay adjustment if, for that period, the participant had designated a percentage of basic pay to be contributed to the TSP or had designated a dollar amount of contributions each pay period which had to be reduced (because of an applicable 5% or 10% limit on contributions per pay period) as a result of the reduction in pay that is made up by the back pay award or other retroactive pay adjustment.

(2) The employing agency must compute the amount of additional employee contributions that would have been contributed to the participant's account had the action leading to the back pay award or other retroactive pay adjustment not occurred. The employing agency must also compute the amount of agency matching contributions and agency automatic (1%) contributions that would have been payable had that action not occurred.

(c)(1) Makeup employee contributions required under paragraphs (a) and (b) of this section must be computed prior to payment of the award of back pay or other retroactive pay adjustment. The makeup employee contributions must be deducted from the payment of the back pay award or other retroactive pay adjustment and contributed to the TSP, unless the payment of such contributions will cause the participant to exceed the annual contribution limits contained in 26 U.S.C. 402(g)(1) or 26 U.S.C. 415 (taking into consideration the expected regular TSP contributions the participant will make during the year in which the back pay award or other retroactive pay adjustment is paid). To

the extent TSP contributions from the back pay award or other retroactive pay adjustment would cause the participant to exceed the elective deferral limits contained in 26 U.S.C. 402(g) or 415, such contributions may be carried forward into subsequent years and made (along with attributable agency matching contributions) pursuant to a schedule of makeup contributions established under the rules set forth in § 1605.3(c).

(2) (i) If employee contributions are deducted from a back pay award or other retroactive pay adjustment, the employing agency will be responsible for contributing the associated agency matching contributions at the same time the employee contributions are made. Regardless of whether a participant elects makeup employee contributions, the employing agency must make, in a lump sum payment, all appropriate agency automatic (1%) contributions associated with the back pay award or other retroactive pay adjustment.

(ii) Any makeup contributions (both employee and employer) associated with a back pay award or other retroactive pay adjustment must be reported by the employing agency for investment among the TSP investment fund(s) using the participant's investment fund election in effect at the time the makeup contributions are made. If no such election is on file, the contributions must be reported by the employing agency for investment in the G Fund.

(d) The employing agency must pay any lost earnings on TSP contributions derived from back pay awards or other retroactive pay adjustments that are required to be paid under 5 CFR part 1606.

(e) If a participant has withdrawn his or her TSP account other than by purchasing an annuity, and the separation from Government employment upon which the withdrawal was based is reversed, resulting in reinstatement of the participant without a break in service, then the participant will have the option, which must be exercised by notice to the Board within 90 days of reinstatement, to restore to his or her TSP account the amount withdrawn. The right to restore the withdrawn funds will expire if the notice is not provided to the Board within 90 days of reinstatement. No earnings will be paid on any restored funds.

#### **§ 1605.5 Misclassification of retirement coverage.**

(a) If a CSRS participant is misclassified by an employing agency as

a FERS participant, when the misclassification is corrected—

(1) The employing agency must, under § 1605.3, remove all employee contributions that exceeded 5% of basic pay for the pay period(s) involved, and refund to the participant the amount contributed. In addition, the employing agency must submit negative adjustment records to remove all employer contributions made to the participant's account during the period of misclassification that have been in the account for less than one year. The participant may choose whether or not he or she wishes to have the remainder of the employee contributions made during the period of misclassification removed from his or her account and refunded to the participant; and

(2) If the participant's account at any time contains no employer contributions that have been in the account for less than one year, the TSP recordkeeper will remove from the account any employer contributions that have been in the account for one year or more (and associated earnings), and will use such amounts to offset TSP administrative expenses.

(b) If a FERS participant is misclassified as a CSRS participant, when the misclassification is corrected he or she may not elect to have the contributions made while classified as CSRS removed from his or her account. The employing agency must make in a lump sum payment, pursuant to § 1605.2(b)(1), the appropriate agency automatic (1%) contributions and agency matching contributions on the employee contributions that were made while the participant was misclassified as CSRS. The participant may also elect to make, under § 1605.2(c), additional contributions that he or she would have been eligible to make as a FERS participant during the period of misclassification. If such contributions are made, the employing agency must also submit any associated agency matching contributions and any lost earnings records required under 5 CFR part 1606.

#### **§ 1605.6 Procedures for claims against employing agencies; time limitations.**

(a) *Agency procedures.* Each employing agency must establish procedures for participants to submit claims for correction under this subpart. Each employing agency's procedures must include the following:

(1) The employing agency will provide the participant with a decision on any claim within 30 days of receipt of the claim unless the employing agency provides the participant with good cause for requiring a longer period

to decide the claim. Any decision to deny a claim in whole or in part must be in writing and must include the reasons for the denial (including citations to any applicable statutes, regulations or procedures), a description of any additional material that would enable the participant to perfect his or her claim, and a statement of the steps to be taken to appeal the denial.

(2) The employing agency must permit a participant at least 30 days to appeal the employing agency's denial of all or any part of his or her claim for correction under this subpart. The appeal must be in writing and addressed to the agency official designated in the initial denial decision or in procedures promulgated by the agency. The participant may include with his or her appeal any documentation or comments that the participant deems relevant to the claim.

(3) The employing agency must issue a written decision on a timely filed appeal within 30 days of receipt of the appeal unless the employing agency provides the participant with good cause for taking a longer period to decide the appeal. The employing agency decision must include the reasons for the decision, as well as citations to any applicable statutes, regulations, or procedures.

(4) If the agency decision on the appeal is not issued in a timely manner, or if the appeal is denied in whole or in part, the participant will be deemed to have exhausted his or her administrative remedy and will be eligible to file suit against the employing agency under 5 U.S.C. 8477. There is no administrative appeal to the Board of a final agency decision.

(b) *Time limit for filing claims.* (1) Upon discovery of administrative errors, employing agencies are required to promptly correct those errors under this subpart, regardless of whether a claim for correction is received from the affected participant. If an error has not been corrected by the employing agency, the affected participant may file a claim for correction with his or her employing agency. The claim must be filed within one year of the earlier of:

(i) Receipt of a pay stub, earnings and leave statement, or other document reflecting the error; or

(ii) The close of the first TSP election period following the participant's receipt of a TSP Participant Statement reflecting the error. For purposes of this paragraph (b)(1)(ii) and paragraph (b)(1)(i) of this section, in the case of a participant who has been improperly classified as to retirement coverage, the receipt of a document indicating the participant's retirement code

classification is not, in and of itself, sufficient to notify the participant that his or her retirement classification is incorrect. However, receipt of a document indicating a change in retirement code classification, in addition to a written notice to the participant that the change may have implications for his or her TSP account, may be deemed by an employing agency to be sufficient to advise the participant that his or her retirement classification had been incorrect prior to the change. The one-year time limit will not commence with respect to retirement coverage misclassification errors unless and until the participant receives a written notice of the error that specifically mentions the TSP.

(2) If a participant fails to file a claim for correction of an administrative error in a timely manner (or fails to appeal a denial of a claim in a timely manner) under paragraph (b)(1) of this section, the agency may still correct any administrative error that is brought to or comes to its attention.

#### **Subpart C—Board or TSP Recordkeeper Errors**

##### **§ 1605.7 Plan-paid lost earnings and other corrections.**

(a) *Plan-paid lost earnings.* (1) Subject to paragraph (a)(2) of this section, if, because of an error committed by the Board or the TSP recordkeeper, a participant's account does not receive credit for earnings (which may be positive or negative) that it would have received had the error not occurred, the account will be credited with the difference between the earnings (if any) it actually received and the earnings it would have received had the error not occurred. The errors that warrant crediting of lost earnings under this paragraph (a) include, but are not limited to:

(i) Board or TSP recordkeeper delay in crediting contributions or other monies to a participant's account;

(ii) Improper issuance of a loan or withdrawal payment to a participant or beneficiary which requires the money to be restored to the participant's account; and

(iii) Investment of all or part of a participant's account in the wrong TSP investment fund(s) (e.g., improper processing or failure to process an interfund transfer request).

(2) A participant's TSP account will not be credited with earnings under paragraph (a)(1) of this section if, during the period the participant's account received credit for less earnings than it would have received but for the Board or recordkeeper error, the participant

had the use of the money on which the earnings would have accrued.

(3) In the case of an error described in paragraph (a)(1)(iii) of this section, the affected participant will, upon discovery of the error, be given a choice whether or not to have the error corrected. If the participant chooses correction, the account will be placed in the position it would have attained had the error not occurred, including crediting of earnings (positive or negative as the case may be) that would have accrued had the error not occurred and reallocation of the account balance among the investment funds in the proportions that would have existed had the error not occurred.

(4) Where the participant continued to have a TSP account, or would have continued to have a TSP account but for the Board or TSP recordkeeper error, earnings under paragraph (a)(1) of this section will be computed for the relevant period based upon the investment funds in which the affected monies would have been invested had the error not occurred. If the period for which lost earnings are paid is a period for which the participant did not, and should not, have had an account in the TSP, then the earnings will be computed using the G Fund rate of return for the relevant period.

(b) *Reversal of loan distributions.* If, because of Board or TSP recordkeeper error, a TSP loan is declared a taxable distribution under circumstances that make such declaration inconsistent with FERSA, 5 CFR part 1655, with the provisions of the documents (including instructions) signed by or provided to the participant in connection with the application for or issuance of the loan, or with other procedures established by the Board or TSP recordkeeper in connection with the TSP loan program, the taxable distribution will be reversed. The participant will be provided an opportunity to reinstate or repay in full the outstanding balance on the loan.

(c) *Other corrections.* The Executive Director may, in his discretion and consistent with the requirements of applicable law, correct any other errors not specifically addressed in this section or provide any other relief to a participant, including payment of lost earnings from the TSP, if the Executive Director determines that the correction or relief would serve the interests of justice, fairness, and equity among the participants of the TSP.

##### **§ 1605.8 Claims for correction of Board or TSP Recordkeeper errors; time limitations.**

(a) *Filing claims.* Claims for correction under this subpart may be submitted initially either to the TSP recordkeeper

or the Board. The claim must be in writing and may be from the affected participant or beneficiary or from a representative of the participant or beneficiary. The written claim must state the basis for the claim.

(b) *Processing claims.* (1) If the initial claim is submitted to the TSP recordkeeper, the TSP recordkeeper may either respond directly to the participant or the person making the claim on behalf of the participant, or may forward the letter to the Board for response. The decision whether the TSP recordkeeper should respond directly or forward the claim to the Board will be made in accordance with guidance and procedures established by the Board or, if no such specific guidance is available, in consultation with the Board's staff. If the TSP recordkeeper responds to a participant's claim, and all or any part of the participant's claim is denied, the participant may request review by the Board within 90 days of the date of the recordkeeper's response.

(2) If the Board denies all or any part of a participant's claim (whether upon review of a TSP recordkeeper denial or upon an initial review by the Board), the participant will be deemed to have exhausted his or her administrative remedy and may file suit under 5 U.S.C. 8477. If the participant does not submit to the Board a request for review of a claim denial by the TSP Recordkeeper within the 90 days permitted under paragraph (b)(1) of this section, the participant shall not be deemed to have exhausted his or her administrative remedy.

(c) *Time limits for filing claims.* (1) Upon discovery of errors subject to correction under this subpart, the Board or TSP recordkeeper will promptly correct such errors in accordance with this subpart, regardless of whether a claim for correction is received from the affected participant. If an error has not been corrected by the Board or TSP recordkeeper, the affected participant must file a claim for correction within one year of the earlier of:

(i) His or her receipt of a pay stub, earnings and leave statement, or other document reflecting the error; or

(ii) The close of the first TSP election period following the participant's receipt of a TSP Participant Statement reflecting the error. For purposes of this paragraph (c)(1)(ii) and paragraph (c)(1)(i) of this section, in the case of a participant whose retirement coverage has been improperly classified, the receipt of a document indicating the participant's retirement code classification is not, in and of itself, sufficient to notify the participant that

his or her retirement code classification is incorrect.

(2) If a participant fails in a timely manner to file a claim for correction (or fails in a timely manner to request reconsideration of a claim) under paragraph (c)(1) of this section, the Board or TSP recordkeeper may still correct any administrative error that is brought to or comes to its attention.

#### Subpart D—Miscellaneous Provisions

##### § 1605.9 Miscellaneous provisions.

(a)(1) If all employee contributions are removed from a participant's account under the rules set forth in this part, but earnings on any of those employee contributions or other residual amounts are left in the account, the earnings will remain in the account unless the participant was ineligible to have an account in the TSP at the time the earnings were credited to the account and remains ineligible. In that case, the earnings will be removed from the account and used to offset TSP administrative expenses. If earnings remain in the account under this paragraph (a), they will be subject to withdrawal from the participant's account upon separation from Federal employment under the same withdrawal rules as apply to any other money in a participant's account.

(2) If any residual earnings on employer contributions remain in a participant's account after all employer contributions have been removed from the account, those residual earnings will be removed from the account and used to offset TSP administrative expenses.

(b) If a participant fails to participate in the TSP due to circumstances beyond his or her control but not due to circumstances attributable to employing agency, Board, or TSP recordkeeper error, the participant will be entitled to elect to participate effective not later than the first pay period after the participant submits a contribution election form (Form TSP-1), regardless of whether the form is submitted during an election period. Such belated elections will be permitted on a prospective basis only; no makeup contributions will be permitted under this part.

(c) If TSP contributions are invested in the wrong investment fund(s) because of employing agency error, that error may be corrected only in accordance with 5 CFR 1606.7. Such errors may not be corrected under this part.

(d)(1) The address for the TSP recordkeeper is: National Finance Center, TSP Service Office, Post Office Box 61500, New Orleans, LA 70161-1500.

(2) The address for the Board is: Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005.

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#### DEPARTMENT OF ENERGY

##### Office of Energy Efficiency and Renewable Energy

##### 10 CFR Part 430

[Docket No. EE-RM-94-403]

RIN 1904-AA67

##### Energy Conservation Program for Consumer Products: Review of Draft Reports and Public Workshop on Clothes Washer Standards

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

**ACTION:** Notice of Availability and Public Workshop.

**SUMMARY:** The Department of Energy (the Department or DOE) today gives notice that copies of the "Draft Report on Design Options for Clothes Washers" and "Draft Report on the Preliminary Engineering Analysis for Clothes Washers" are available. In addition, the Department of Energy will hold a public workshop to discuss the above mentioned reports, comments received on the reports, the peer review of the reports, and other relevant topics pertaining to standards for clothes washers. All persons are hereby given notice of the opportunity to attend and participate in the public workshop.

**DATES:** The public workshop will be held on Friday, November 15, 1996, from 9:00 a.m. to 4:00 p.m.

**ADDRESSES:** A copy of the reports entitled "Draft Report on Design Options for Clothes Washers" and "Draft Report on the Preliminary Engineering Analysis for Clothes Washers" may be obtained from: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, EE-43, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-7574. These documents may be read at the DOE Freedom of Information Reading Room, U.S. DOE, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-6020, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. The workshop will be held at the U.S. Department of Energy, Room 1E-245,

1000 Independence Avenue, SW, Washington, DC 20585.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-43, 1000 Independence Avenue, SW, Washington, DC 20585-0121, (202) 586-0371

Mr. P. Marc LaFrance, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-43, 1000 Independence Avenue, SW, Washington, DC 20585-0121, (202) 586-8423

Ms. Sandy Beall, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, Mail Station EE-43, 1000 Independence Avenue, SW, Washington, DC 20585-0121, (202) 586-7574.

**SUPPLEMENTARY INFORMATION:** The Department of Energy has initiated an extensive standards rulemaking process improvement effort which includes priority setting for various products. The Department has determined that the clothes washers standards rulemaking be assigned a "High Priority" based on potential energy savings being large. Therefore, the Department is initiating the first step of the new process, which is to consider design options for efficiency improvements, in developing clothes washer standards. The procedures of the new process can be found in the July 15, 1996, Federal Register notice (61 FR 36973) which outlines the planning and prioritization process, data collection and analysis, and decision making criteria.

The Department has recently drafted the following documents: "Draft Report on Design Options for Clothes Washers" and "Draft Report on the Preliminary Engineering Analysis for Clothes Washers." The design options report identifies product classes and narrows the range of design options being considered in the development of standards. The Department is providing the preliminary engineering analysis primarily for information purposes, because the Department had previously received extensive data on manufacturer costs, energy and water use from the Association of Home Appliance Manufacturers, and was able to do a preliminary analysis based largely on this data. The engineering analysis, selection of candidate standard levels, and draft consumer/forecasting (energy and water) analyses will be completed before the Department publishes a Supplemental Advance Notice of

Proposed Rulemaking (ANOPR) for clothes washers planned for April 1997.

The Department seeks information from interested parties relative to the validity of the design option report, and on how to conduct and complete the engineering analysis. These reports are currently being peer reviewed by Oak Ridge National Laboratory and Arthur D. Little, Inc. There will be an opportunity to suggest other parties to perform peer review at the workshop.

The Department sent a letter on October 15, 1996, to all interested parties that have participated in past clothes washer rulemakings, announcing the workshop and providing the above mentioned draft reports for comment by November 8, 1996.

A workshop for clothes washer standards, primarily to discuss the screening of design options, will be held on Friday, November 15, 1996, at the U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC. 20585-0121 in room 1E-245 from 9:00 a.m. to 4:00 p.m. Discussion will cover the draft reports, comments received on the reports, the peer review of the reports, and other relevant topics pertaining to the standards.

The preliminary draft agenda for the workshop is as follows:

#### Preliminary Draft Agenda

Opening Remarks, Introductions,  
Agenda Review  
Overview of Clothes Washer  
Rulemaking Schedule  
Discussion on Design Options  
Discussion on Preliminary Engineering  
Analysis  
Discussion on How to Improve Future  
Workshops  
Closing—Next Steps

After completion of the workshop, the Department will review all of the findings and other recommendations. The Department will use this information to develop the final engineering analysis report for review by interested parties. The workshop will be professionally facilitated.

Copies of any comments and this notice are available in the DOE Freedom of Information Reading Room. A copy of the workshop transcript will be available in the DOE public reading room approximately ten days after the workshop.

There will also be an opportunity to submit written comments after the workshop. Please notify Bryan Berringer at the above listed address of your intention to attend the workshop, if you wish to submit written comments, or if you wish to be added to the DOE

mailing list for receipt of future notices and information concerning clothes washer matters relating to energy efficiency.

Issued in Washington, DC, on October 30, 1996.

Christine A. Ervin,

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 96-28369 Filed 11-4-96; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 96-NM-124-AD]

RIN 2120-AA64

#### **Airworthiness Directives; McDonnell Douglas Model DC-9 and Model DC-9-80 Series Airplanes, Model MD-88 Airplanes, and C-9 (Military) Series Airplanes Equipped With BFGoodrich Evacuation Slides**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-9 and Model DC-9-80 series airplanes, Model MD-88 airplanes, and C-9 (military) series airplanes. This proposal would require modification of the girt and firing lanyard stowage. This proposal is prompted by reports of in-cabin inflation of certain evacuation slides due to the impingement of the galley service cart on the slide girt and firing lanyard. The actions specified by the proposed AD are intended to prevent inadvertent inflation of the evacuation slides inside the cabin, which could contribute to injury of passengers and/or flightcrew in the passenger cabin.

**DATES:** Comments must be received by December 16, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-124-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from

BFGoodrich Company, Aircraft Evacuation Systems, Department 7916, Phoenix, Arizona 85040. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

#### **FOR FURTHER INFORMATION CONTACT:**

Tracy Ton, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5352; fax (310) 627-5210.

#### **SUPPLEMENTARY INFORMATION:**

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-124-AD." The postcard will be date stamped and returned to the commenter.

##### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-124-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### Discussion

The FAA has received several reports of certain BFGoodrich evacuation slides installed on McDonnell Douglas Model DC-9-80 series airplanes inadvertently inflating inside the passenger cabin. The

cause of these in-cabin inflations is the impingement of the galley service cart on the slide girt and firing lanyard of the evacuation slide. Such an impingement can snag the firing lanyard (or handle), and, consequently, fire the slide when the cart is moved. This condition, if not corrected, could contribute to injury of passengers and/or flightcrew in the passenger cabin.

The BFGoodrich evacuation slides installed on Model DC-9 series airplanes and Model MD-88 airplanes are identical to those installed on the affected Model DC-9-80 series airplanes. Therefore, all of these models may be subject to this same unsafe condition.

#### Explanation of Relevant Service Information

The FAA has reviewed and approved BFGoodrich Service Bulletin 25-280, Revision 2, dated August 15, 1996, which describes procedures for modification of the girt and firing lanyard stowage. The modification provides a cover for the firing lanyards, changes the firing lanyard handle shape, and ensures consistent folding of the girt when the girt bar is installed in the floor fittings (armed condition) of the airplane.

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the girt and firing lanyard stowage. The actions would be required to be accomplished in accordance with the service bulletin described previously.

#### Explanation of the Applicability of the Proposed Rule

Operators should note that the applicability of this proposed rule affects certain McDonnell Douglas series airplanes that are equipped with certain BFGoodrich evacuation slides. The FAA's general policy is that, when an unsafe condition results from the installation of an appliance or other item that is installed in only one particular make and model of aircraft, the AD is issued so that it is applicable to the aircraft, rather than the item. The reason is simple: Making the AD applicable to the airplane model on which the item is installed ensures that operators of those airplanes will be notified directly of the unsafe condition and the action required to correct it. While it is assumed that an operator will know the models of the airplanes that it operates, there is a potential that

the operator will not know or be aware of specific items that are installed on its airplanes. It is for this reason that this proposed AD would be applicable to Model DC-9 and Model DC-9-80 series airplanes, Model MD-88 airplanes, and C-9 (military) series airplanes, rather than to the BFGoodrich evacuation slides. Additionally, calling out the airplane model as the subject of the AD prevents "unknowing non-compliance" on the part of the operator.

#### Cost Impact

There are approximately 300 BFGoodrich evacuation slides installed on 100 McDonnell Douglas Model DC-9 and Model DC-9-80 series airplanes, Model MD-88 airplanes, and C-9 (military) series airplanes of the affected design in the worldwide fleet.

The FAA estimates that 180 BFGoodrich evacuation slide installed on 60 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per slide to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$75 per forward slide and \$100 per aft slide. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$195 per forward slide and \$220 per aft slide.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this

action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 96-NM-124-AD.

*Applicability:* Model DC-9-10, -20, -30, -40, and -50 series airplanes; Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87) series airplanes, Model MD-88 airplanes; and C-9 (military) series airplanes; equipped with BFGoodrich Evacuation Slides, as listed in BFGoodrich Service Bulletin 25-280, Revision 2, dated August 15, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent in-cabin inflation of the evacuation slides, which could contribute to injury of passengers and/or flightcrew in the passenger cabin, accomplish the following:

(a) Within 36 months after the effective date of this AD, modify the girt and firing lanyard stowage in accordance with BFGoodrich Service Bulletin 25-280, Revision 2, dated August 15, 1996.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA,

Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 29, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-28321 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-13-U

## 14 CFR Part 39

[Docket No. 96-CE-19-AD]

RIN 2120-AA64

### **Airworthiness Directives; Schempp-Hirth K.G. Models Standard-Cirrus, Nimbus-2, Nimbus-2B, Mini-Nimbus HS-7, Mini-Nimbus B, Discus a, and Discus b Sailplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Schempp-Hirth K.G. (Schempp-Hirth) Models Standard-Cirrus, Nimbus-2, Nimbus-2B, Mini-Nimbus HS-7, Mini-Nimbus B, Discus a, and Discus b sailplanes. The proposed action would require accomplishing a load test of the elevator control system, and replacing the elevator vertical actuating tube either immediately or at a certain time period depending on the results of the load test. The proposed action results from reported incidents of corrosion found in the elevator because of water entering the elevator control rod. The actions specified by the proposed AD are intended to prevent corrosion in the elevator caused by water entering the elevator control rod, which could result in elevator failure and subsequent loss of control of the sailplane.

**DATES:** Comments must be received on or before January 17, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region,

Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96-CE-19-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, Postfach 1443, D-73230 Kirchheim/Teck, Germany. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Mike Kiesov, Project Officer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426-6932; facsimile (816) 426-2169.

### **SUPPLEMENTARY INFORMATION:**

#### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96-CE-19-AD." The postcard will be date stamped and returned to the commenter.

#### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96-CE-19-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

### **Discussion**

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Schempp-Hirth Models Standard-Cirrus, Nimbus-2, Nimbus-2B, Mini-Nimbus HS-7, Mini-Nimbus B, Discus a, and Discus b sailplanes. The LBA reports several incidents of corrosion found in the elevator because of water entering the elevator control rod. This condition, if not detected and corrected, could result in elevator failure and subsequent loss of control of the sailplane.

### **Applicable Service Information**

Schempp-Hirth Technical Note No. 278-33, 286-28, 295-22, 328-10, 349-16, 360-9, 373-5, dated November 19, 1992, specifies procedures for accomplishing a load test of the elevator control system, and replacing the elevator vertical actuating tube. This technical note also includes an appendix that includes additional procedures for accomplishing the above actions.

The LBA classified this technical note as mandatory and issued LBA AD 92-360, dated January 8, 1993, in order to assure the continued airworthiness of these sailplanes in Germany.

### **The FAA's Determination**

This sailplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA; reviewed all available information, including the technical note referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

### **Explanation of the Provisions of the Proposed AD**

Since an unsafe condition has been identified that is likely to exist or develop in other Schempp-Hirth Models Standard-Cirrus, Nimbus-2, Nimbus-2B, Mini-Nimbus HS-7, Mini-Nimbus B, Discus a, and Discus b sailplanes of the same type design, the proposed AD would require accomplishing a load test of the elevator control system, and replacing the elevator vertical actuating tube either immediately or at a certain time period depending on the results of the load test. Accomplishment of the proposed actions would be in

accordance with Schempp-Hirth Technical Note No. 278-33, 286-28, 295-22, 328-10, 349-16, 360-9, 373-5, dated November 19, 1992, and the Appendix to this technical note.

#### Compliance Time of the Proposed AD

The compliance time of the proposed replacement of this NPRM is presented in calendar time instead of hours time-in-service. The FAA has determined that a calendar time for compliance would be the most desirable method because the unsafe condition of the elevator control system is caused by corrosion. Corrosion can occur in the areas of the elevator control system of the affected sailplanes regardless of whether the sailplane is in service.

#### Cost Impact

The FAA estimates that 167 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per sailplane to accomplish the proposed replacement, and that the average labor rate is approximately \$60 an hour. Parts cost approximately \$40 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. sailplane operators is estimated to be \$36,740. This figure is based on the assumption that no owner/operator of the affected sailplanes has accomplished the proposed replacement.

Schempp-Hirth has informed the FAA that parts have been distributed to equip approximately 53 sailplanes. Assuming that each set of parts is incorporated on an affected sailplane, the cost impact upon U.S. sailplane owners/operators would be reduced by \$11,660 from \$36,740 to \$25,080.

In addition, the above figure is based only on the replacement costs; it does not take into account the costs of the load test. An owner/operator of an affected sailplane is allowed to accomplish this load test so the only cost involved is the time it takes the owner/operator to accomplish this test.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a

“significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

##### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Schempp-Hirth K.G.: Docket No. 96-CE-19-AD.

*Applicability:* The following sailplane models and serial numbers, certificated in any category:

Models	Serial Nos.
Standard-Cirrus .....	All serial numbers.
Nimbus-2 and Nimbus-2B.	All serial numbers.
Mini-Nimbus HS-7 and Mini-Nimbus B.	Serial numbers 1 to 159.
Discus a and Discus b.	Serial numbers 1 to 446.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been

eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated in the body of this AD, unless already accomplished.

To prevent corrosion in the elevator caused by water entering the elevator control rod, which could result in elevator failure and subsequent loss of control of the sailplane, accomplish the following:

(a) Prior to further flight after the effective date of this AD, accomplish a load test of the elevator control system in accordance with Schempp-Hirth Technical Note No. 278-33, 286-28, 295-22, 328-10, 349-16, 360-9, 373-5, dated November 19, 1992, and the Appendix to this technical note.

Note 2: Sections 61.107(d)(1) and 61.127(d)(1) of the Federal Aviation Regulations (14 CFR 61.107(d)(1) and 14 CFR 61.127(d)(1)) give the authorization for glider/sailplane operators to disassemble and reassemble the elevator control system (for storage purposes between flights). The “prior to further flight after the effective date of this AD” compliance time in paragraph (a) of this AD was established to coincide with the next reassembly of the elevator control system.

(b) If any discrepancies are found during the load test required by paragraph (a) of this AD, prior to further flight, replace the elevator vertical actuating tube in accordance with Schempp-Hirth Technical Note No. 278-33, 286-28, 295-22, 328-10, 349-16, 360-9, 373-5, dated November 19, 1992, and the Appendix to this technical note.

(c) Within the next six calendar months after the effective date of this AD, unless already accomplished (compliance with paragraph (b) of this AD), replace the elevator vertical actuating tube in accordance with Schempp-Hirth Technical Note No. 278-33, 286-28, 295-22, 328-10, 349-16, 360-9, 373-5, dated November 19, 1992, and the Appendix to this technical note.

(d) The elevator control system load test as required by paragraph (a) of this AD may be performed by the sailplane owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Schempp-Hirth Flugzeugbau GmbH, Krehenstrasse 25, Postfach 1443, D-73230 Kirchheim/Teck, Germany; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 29, 1996.

John R. Colomy,

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-28320 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-13-U

## 14 CFR Part 39

[Docket No. 96-NM-107-AD]

RIN 2120-AA64

### Airworthiness Directives; Airbus Model A300 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 series airplanes. This proposal would require a one-time template inspection of the rear pressure bulkhead to detect dents; repetitive eddy current inspections of dents greater than a certain depth to detect cracking; and repair, if necessary. This proposal is prompted by a report indicating that cracking has been found in the vicinity of a dent in the rear pressure bulkhead of one airplane. The actions specified by the proposed AD are intended to prevent fatigue cracking resulting from a dent in the rear pressure bulkhead, which if uncorrected, could reduce the structural integrity of the bulkhead, and consequently lead to rapid depressurization of the airplane.

**DATES:** Comments must be received by December 16, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-107-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2797; fax (206) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-107-AD." The postcard will be date stamped and returned to the commenter.

##### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-107-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A300 series airplanes. The DGAC advises that it has received a report indicating that cracking caused by fatigue has been detected in the vicinity

of a dent in the rear pressure bulkhead of a Model A300 series airplane; the cause of the denting has not yet been ascertained, however. Due to the force required to dent the rear pressure bulkhead, it is likely the dent did not occur while the airplane was in service, but could have resulted from a shipping accident prior to installation of the bulkhead, or from procedures used to install the bulkhead on the airplane. Furthermore, it is not known if this denting is strictly an isolated occurrence or if it could affect other Model A300 series airplanes. What is known, however, is that denting in this area can lead to cracking which, if not corrected, could reduce the structural integrity of the rear pressure bulkhead, and consequently lead to rapid depressurization of the airplane.

##### Explanation of Relevant Service Information

Airbus has issued Service Bulletin No. A300-53-302, dated November 3, 1995, which describes procedures for conducting a one-time template inspection of the rear pressure bulkhead to detect dents; conducting repetitive eddy current inspections of dents greater than a certain depth to detect fatigue cracking; and repair, if necessary.

Depending on the extent and location of the cracking, the service bulletin, in some circumstances, provides for continued flight without immediate repair of the damaged area; temporary and permanent repairs, however, are to be performed eventually. In other situations, the service bulletin instructions recommend the installation of a permanent repair to be performed prior to further flight. The accomplishment of this permanent repair procedure eliminates the need for repetitive eddy current inspections and temporary repair.

The DGAC classified this service bulletin as mandatory and issued French airworthiness directive (CN) 95-245-192(B), dated December 6, 1995, in order to assure the continued airworthiness of these airplanes in France.

##### FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the

DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The FAA acknowledges that additional data is necessary to ascertain if the denting that was found on the incident airplane was the result of an isolated event, or if it was the consequence of common shipping practices, common installation practices, or both. The manufacturer is continuing its work to determine this. However, regardless of the lack of data at this time to establish the cause of the denting, the major consideration in the FAA's decision to promulgate this AD action is the possibility of dents existing on airplanes throughout the fleet and going undetected. The concentration of stress in a dented area increases the likelihood that fatigue cracking will occur. These cracks, if allowed to propagate, can reduce the structural integrity of the rear pressure bulkhead, and consequently result in rapid depressurization of the airplane.

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time template inspection of the rear pressure bulkhead to detect dents; repetitive eddy current inspections of dented areas greater than a certain depth to detect fatigue cracking; and repair, if necessary.

The extent and location of cracking would determine whether temporary or permanent repair is to be accomplished prior to further flight. In addition, permanent repair would constitute terminating action for the repetitive eddy current inspections and temporary repair requirements.

The proposed inspection and certain repairs would be required to be accomplished in accordance with the service bulletin described previously.

#### Differences Between Proposed AD and Relevant Service Information

When radial cracking is detected in the circumferential strap and/or the rivet area, the service bulletin provides for continued flight prior to repair. However, the proposed AD would require repair prior to further flight, regardless of the type of crack or where the cracking occurs. If radial cracking is detected only in the circumferential strap, however, a temporary repair would be allowed prior to further flight; all other cracking in the rear pressure

bulkhead would be required to be permanently repaired before further flight.

Due to the safety implications and consequences associated with cracking in the rear pressure bulkhead, the FAA has determined that continued flight without the immediate accomplishment of temporary or permanent repair, as applicable, is unacceptable.

#### Cost Impact

The FAA estimates that 15 Airbus Model A300 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed inspection for denting, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$4,500, or \$300 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 96–NM–107–AD.

*Applicability:* Model A300 airplanes having serial numbers 001 through 0156, inclusive, certificated in any category.

*Note 1:* This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the rear pressure bulkhead, which could reduce its structural integrity, and consequently lead to rapid depressurization of the airplane, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform a template inspection to detect dents of the rear pressure bulkhead in the area between right hand and left hand radial stiffeners RS 5 and RS 13, in accordance with Airbus Service Bulletin No. A300–53–302, dated November 3, 1995.

(b) If no dent, or if no dent that is greater than 2 mm in depth, is detected during the template inspection required by paragraph (a) of this AD: No further action is required by this AD.

(c) If any dent that is greater than 2 mm in depth is detected during the template inspection required by paragraph (a) of this AD: Prior to further flight, inspect the dent for cracking, in accordance with Airbus Service Bulletin No. A300–53–302, dated November 3, 1995.

(1) If no crack is detected: Repeat the inspection for cracking at intervals not to exceed 2,000 landings until the permanent repair specified in paragraph (c)(1)(i) of this AD is accomplished.

(i) Prior to the accumulation of 5 years or 11,000 landings after the effective date of this

AD, whichever occurs first, accomplish the permanent repair of the dent in accordance with paragraph 2.B.(3)(c) 1 of the Accomplishment Instructions of the service bulletin.

(ii) Accomplishment of the permanent repair of the dent constitutes terminating action for the repetitive inspection requirements of this paragraph, and thereafter, no further action is required.

(2) If only radial cracking is detected in the circumferential strap and no other cracking is found elsewhere in the rear pressure bulkhead: Prior to further flight, accomplish the circumferential strap repair, in accordance with paragraph 2.B.(3)(c) 2 of the Accomplishment Instructions of the service bulletin. Thereafter, inspect the dent for cracking at intervals not to exceed every 1,000 landings until the permanent repair specified in paragraph (c)(2)(i) of this AD is accomplished.

(i) Prior to the accumulation of 5 years or 11,000 landings from the effective date of this AD, whichever occurs first, accomplish permanent repair of the dent in accordance with the paragraph 2.B.(3)(c) 2 of the Accomplishment Instructions of the service bulletin.

(ii) Accomplishment of the permanent repair of the dent constitutes terminating action for the repetitive inspection and repair requirements of this paragraph and thereafter, no further action is required.

(3) If any other cracking not specified in paragraph (c)(1) or (c)(2) of this AD is detected: Prior to further flight, accomplish a permanent repair of the dent in accordance with the paragraph 2.B.(3)(c) 3 or 4, as applicable, of the Accomplishment Instructions of the service bulletin; or in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Accomplishment of the permanent repair of the dent in accordance with the Accomplishment Instructions of the service bulletin constitutes terminating action for the requirements of this AD and, thereafter, no further action is required.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD

can be accomplished. Issued in Renton, Washington, on October 29, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-28322 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-13-U

#### 14 CFR Part 39

[Docket No. 95-NM-94-AD]

#### **Airworthiness Directives; Fokker Model F28 Mark 0100 and Mark 0070 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 and Mark 0070 series airplanes. This proposal would require modification of the hook and latch engagement assemblies of the engine cowl doors, measurement of the aerodynamic mismatch between the fixed cowl and lower cowl door, and repair, if necessary. This proposal is prompted by reports of operational experience that indicate that an aerodynamic mismatch may exist between the fixed engine cowl and the lower cowl door, and may be the result of one or more hooks of the engagement assemblies not engaging adequately. This condition may cause the other hooks to carry loads higher than they were originally designed to carry, and could result in the failure of those hooks that are engaged. The actions specified by the proposed AD are intended to prevent possible separation of the lower cowl from the airplane due to failure of the hooks of the engagement assemblies.

**DATES:** Comments must be received by December 16, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-94-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport

Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Tim Dulin, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1149.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-94-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-94-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### **Discussion**

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 and Mark 0070 series airplanes. The RLD has received reports indicating that operational experience has shown that an aerodynamic mismatch (gap) may exist between the fixed engine cowl and the lower cowl door. The lower cowl

door is engaged in the "closed" position by two latches and three hooks. An excessive aerodynamic mismatch (or gap) in this assembly indicates that one or more hooks are not engaged properly. If this is the case, the aerodynamic mismatch could cause the hooks that are engaged to carry loads higher than they were originally designed to carry; in the event of a burst engine bypass duct, this situation could result in failure of the hooks that are engaged. Failure of these hooks could result in the lower engine cowl separating from the airplane and subsequently causing damage to other airplane structure or posing a hazard to persons on the ground.

#### Explanation of Relevant Service Information

Fokker has issued Service Bulletin SBF100-71-019, dated March 21, 1996, which describes procedures for:

1. modifying the hook and latch engagement assemblies of the left and right engine lower cowl door; and
2. measuring the aerodynamic mismatch between the fixed cowl and lower cowl.

If the measurement of the aerodynamic mismatch is beyond the limits specified in the service bulletin, the service bulletin also provides procedures to measure the mis-engagement between the left and right engine hooks of the fixed cowl door and the clevis fittings of the lower cowl door. The service bulletin also describes modification procedures for the mid-clevis fitting on the right and left engine lower cowl door if the mis-engagement is beyond the limits specified in the service bulletin.

The RLD classified this service bulletin as mandatory and issued Netherlands airworthiness directive BLA 1989-049/3 (A), dated June 28, 1996, in order to assure the continued airworthiness of these airplanes in the Netherlands.

#### FAA's Conclusions

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the hook and latch engagement assemblies of the left and right engine lower cowl door. It would also require measurement of the aerodynamic mismatch between the fixed cowl and lower cowl, and various follow-on actions, dependent upon whether the measurement of the aerodynamic mismatch is beyond certain limits. These actions would be required to be accomplished in accordance with the service bulletin described previously.

#### Cost Impact

The FAA estimates that 124 Fokker Model F28 Model 0100 and 0070 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the initial inspection and modification, and that the average labor rate is \$60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$22,320, or \$180 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this

action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95-NM-94-AD.

*Applicability:* Model F28 Mark 0100 and Mark 0070 series airplanes as listed in Fokker Service Bulletin SBF100-71-019, dated March 21, 1996; certificated in any category.

*Note 1:* This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent separation of the lower cowl from the airplane due to failure of the hook and latch engagement assembly of the cowl door, accomplish the following:

- (a) Accomplish the requirements of paragraph (b) of this AD at the later of the times indicated in paragraph (a)(1), (a)(2), or (a)(3) of this AD:

- (1) prior to the accumulation of 2,500 total flight cycles; or

- (2) within 2,500 flight cycles since the last inspection performed in accordance with Fokker Service Bulletin SBF100-71-003, dated April 14, 1989; Revision 1, dated August 8, 1989, or Revision 2, dated November 21, 1994; or

- (3) within 30 days after the effective date of this AD.

(b) At the time specified in paragraph (a) of this AD, accomplish the actions specified in either paragraph (b)(1) or (b)(2) of this AD, as applicable:

(1) For airplanes specified in Part 1 of Fokker Service Bulletin SBF100-71-019, dated March 21, 1996: Modify the hook and latch engagement assemblies of the left and right engine cowl doors, and inspect to determine the aerodynamic mismatch between the fixed cowl and lower cowl door; in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100-71-019, dated March 21, 1996.

Note 2: Accomplishment of the modification of the hook and latch engagement assemblies of the left and right engine cowl doors, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100-71-003, dated April 14, 1989; Revision 1, dated August 8, 1989; or Revision 2, dated November 21, 1994; is considered acceptable for compliance with the applicable modification specified in paragraph (b)(1) of this amendment.

(2) For airplanes specified in Part 2 of Fokker Service Bulletin SBF100-71-019, dated March 21, 1996, excluding those airplanes subject to paragraph (b)(1) of this AD: Perform a one-time inspection to determine the aerodynamic mismatch between the fixed cowl and the lower cowl door, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100-71-019, dated March 21, 1996.

(c) If the aerodynamic mismatch measured between the fixed cowl and lower cowl door is less than or equal to 4.5 mm, no further action is required by this AD.

(d) If the aerodynamic mismatch measured between the fixed cowl and lower cowl door is greater than 4.5 mm, prior to further flight, perform a one-time inspection to measure the mis-engagement between the left and right engine hooks of the fixed cowl door and the clevis fittings of the lower cowl door; in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100-71-019, dated March 21, 1996.

(1) If the mis-engagement is less than or equal to 6.5 mm, no further action is required by this AD.

(2) If the mis-engagement is greater than 6.5 mm: Within 1 year after measuring the mis-engagement required by this paragraph, modify the mid-clevis fitting on the right and left engine lower cowl door; in accordance with Part 3 of the Accomplishment Instructions of Fokker Service Bulletin SBF100-71-019, dated March 21, 1996. After accomplishment of this modification, no further action is required by this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 3: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 29, 1996.

Darrell M. Pederson,  
*Acting Manager, Transport Airplane  
Directorate, Aircraft Certification Service.*

[FR Doc. 96-28323 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-13-P

## 14 CFR Part 73

[Airspace Docket No. 96-AGL-16]

### Proposed Amendment to Time of Designation for Restricted Area R-4305, Lake Superior, MN

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule amends the time of designation for Restricted Area 4305 (R-4305), Lake Superior, MN, by reducing the requirement for the issuance of a Notice to Airmen (NOTAM) from 12 hours in advance to 2 hours in advance of activation of the airspace. The U.S. Air Force proposed this amendment to permit greater flexibility in scheduling R-4305.

**DATES:** Comments must be received on or before December 17, 1996.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AGL-500, Docket No. 96-AGL-16, Federal Aviation Administration, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96-AGL-16." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267-9677 for a copy of Advisory Circular No. 11-2A, which describes the application procedure.

#### The Proposal

The FAA is proposing an amendment to Title 14 of the Code of Federal Aviation Regulations part 73 (14 CFR part 73) to amend the time of designation for R-4305 from the current "Intermittent by NOTAM, 12 hours in

advance," to "Intermittent by NOTAM, 2 hours in advance." The current 12-hour in advance NOTAM requirement does not permit the using agency sufficient flexibility to efficiently accomplish its mission in the event of maintenance or weather delays, or other operational factors. This proposal would not alter the existing boundaries, altitudes, or designated purpose of R-4305.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

This proposal would not affect the existing boundaries, altitudes, or activities conducted in R-4305. There would be no change from current operations and no new air traffic procedures would be necessary as a result of this proposed rule. Therefore, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts."

#### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

#### **PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

2. Section 73.43 is amended as follows:

#### **§ 73.43 [Amended]**

R-4305 Lake Superior, MN—  
[Amended]

By removing "Time of Designation. Intermittent by NOTAM, 12 hours in advance," and substituting "Time of designation. Intermittent by NOTAM, 2 hours in advance."

Issued in Washington, DC, on October 29, 1996.

Jeff Griffith,

*Program Director for Air Traffic Airspace Management.*

[FR Doc. 96-28414 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-13-P

#### **DEPARTMENT OF THE TREASURY**

#### **Bureau of Alcohol, Tobacco and Firearms**

#### **27 CFR Parts 4, 5, 7, 19, 20, 22, 24, 25, 27, 70, 250 and 251**

[Notice No. 843; Ref: Notice No. 834]

RIN 1512-AA72

#### **Importation of Distilled Spirits, Wine and Beer (90 D 003)**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This notice reopens the comment period for Notice No. 834, a notice of proposed rulemaking, published in the Federal Register on August 5, 1996. ATF has received a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues raised in the notice.

**DATES:** Written comments must be received on or before December 3, 1996.

**ADDRESSES:** Send written comments to: Chief, Wine, Beer and Spirits Regulations Branch; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091-0221; *ATTN: Notice No. 834.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Kirn, Alcohol Import-Export Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8110).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 5, 1996, ATF published a notice of proposed rulemaking (NPRM) in the Federal Register soliciting comments from the public and industry

on a proposal to revise and recodify the regulations pertaining to importation of distilled spirits, wine and beer. (Notice No. 834; 61 FR 40568).

The comment period for Notice No. 834 was scheduled to close on October 4, 1996. Prior to the close of the comment period ATF received a request from a national trade association, the Presidents' Forum of the Beverage Alcohol Industry, to extend the comment period for sixty days. The Presidents' Forum stated that it needed additional time to address the numerous and complex issues contained in the notice.

In consideration of the above, ATF finds that a reopening of the comment period is warranted.

#### *Disclosure*

Copies of this notice, Notice No. 834, and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information. The author of this document is Marjorie D. Ruhf, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

#### *List of Subjects*

##### *27 CFR Part 4*

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

##### *27 CFR Part 5*

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

##### *27 CFR Part 7*

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers.

##### *27 CFR Part 19*

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Chemicals, Claims, Customs duties and inspections, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Stills, Surety bonds, Transportation, Vinegar, Virgin Islands, Warehouses, Wine.

**27 CFR Part 20**

Administrative practice and procedure, Advertising, Alcohol, Authority delegations (Government agencies), Chemicals, Claims, Cosmetics, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation.

**27 CFR Part 22**

Administrative practice and procedure, Advertising, Alcohol, Authority delegations (Government agencies), Claims, Cosmetics, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation.

**27 CFR Part 24**

Administrative practice and procedure, Authority delegations (Government agencies), Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

**27 CFR Part 25**

Administrative practice and procedure, Authority delegations (Government agencies), Beer, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds, Transportation.

**27 CFR Part 27**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Cosmetics, Customs duties and inspection, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting and recordkeeping requirements, Transportation, Wine.

**27 CFR Part 70**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Bankruptcy, Claims, Disaster assistance, Excise taxes, Firearms and ammunition, Government employees, Law enforcement, Law enforcement officers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

**27 CFR Part 250**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Claims, Customs duties and inspections, Drugs, Electronic funds transfers, Excise taxes, Foods, Liquors, Packaging and containers, Reporting requirements, Spices and flavorings, Surety bonds, Transportation, U.S. Possessions, Wine.

**27 CFR Part 251**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspections, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting and recordkeeping requirements, Transportation, Wine.

**Authority and Issuance**

This notice is issued under the authority in 26 U.S.C. 5301, 7805, and 27 U.S.C. 205.

Dated: October 28, 1996.

John W. Magaw,

Director.

[FR Doc. 96-28361 Filed 11-4-96; 8:45 am]

BILLING CODE 4810-31-P

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 199**

[DoD 6010.8-R]

RIN-0720-AA73

**Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Health Promotion and Disease Prevention Visits and Immunizations**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule expands well-baby visits and immunizations to dependents under the age of six and improves access to preventive benefits for dependents age six and above to include health promotion and disease prevention visits in connection with immunizations, pap smears and mammograms.

**DATES:** Written comments will be accepted until January 6, 1997.

**ADDRESSES:** Forward comments to the Office of Health Services Financing Policy, Department of Defense, Room 1B657 Pentagon, Washington, DC 20301-1200.

**FOR FURTHER INFORMATION CONTACT:** Cynthia P. Speight, Office of Assistant

Secretary of Defense (Health Affairs), (703) 697-8975.

**SUPPLEMENTARY INFORMATION:** On February 10, 1996, P.L. 104-106 was signed into law. Section 701 of that law extends coverage of "well-baby visits" and immunizations for an additional three years, from up to two years of age to under six years of age. Section 701 also provides for additional preventive care services under the Basic CHAMPUS Program (see § 199.4) for dependents six years of age or older. This rule implements provisions of Public Law 104-106 by changing "well-baby care" to "well-child care" and by providing for additional preventive care services for dependents six years of age or older. This rule improves availability of immunizations and other preventive services, particularly for children. While these services have previously been available in military hospitals and clinics, access has depended on proximity to military medical treatment facilities with available space and services. Access, therefore, has not been uniformly attainable for all beneficiaries.

These proposed preventive services and immunizations are based on recommendations of the U.S. Preventive Services Task Force which set national health goals in their report Healthy People 2000. Broad goals set by Healthy People 2000 included an increase in the span of healthy life for Americans, reduction in health disparities among Americans, and access to preventive services for all Americans. This rule strengthens existing programs within the Department and contributes significantly to national efforts toward meeting these goals.

**Regulatory Procedures**

Executive Order 12866 requires that a regulatory impact analysis be performed on any significant regulatory action, defined as one which would have an annual effect on the economy of \$100 million or more, or have other significant effects.

The Regulatory Flexibility Act requires that each federal agency prepare a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. This proposed rule is not a significant regulatory action under E.O. 12866, nor would it have a significant impact on small entities. In addition, this proposed rule does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3511). This is a proposed rule. All public comments are invited.

## List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

**PART 199—[AMENDED]**

Accordingly, 32 CFR Part 199 is amended as follows:

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; and 10 U.S.C. Chapter 55.

2. Section 199.2(b) is proposed to be amended by revising the definition for "well-baby care" as follows:

**§ 199.2 Definitions.**

\* \* \* \*

(b) \* \* \*  
*Well-child care.* A specific program of periodic health screening, developmental assessment, and routine immunization for children under six years of age.

\* \* \* \*

3. Section 199.4 is proposed to be amended by revising the heading of paragraph (c)(2), paragraphs (c)(2) (xiii), (c)(2)(xvi), (c)(3)(xi), (g)(37), and (g)(47).

**§ 199.4 Basic program benefits.**

\* \* \* \*

(c) \* \* \*  
(2) *Covered services of physicians and other authorized professional providers.*

\* \* \* \*

(xiii) *Well-child care.*

\* \* \* \*

(xvi) *Routine eye examinations.* Coverage for routine eye examinations is limited to dependents of active duty members, to one examination per calendar year per person, and to services rendered on or after October 1, 1984, except as provided under paragraph (c)(3)(xi) of this section.

(3) \* \* \*

\* \* \* \*

(xi) *Well-child care.* Benefits routinely are payable for well-child care from birth to under six years of age. These periodic health examinations are designed for prevention, early detection and treatment of disease and consist of screening procedures, immunizations and risk counseling.

(A) The following services are payable when required as a part of the specific well-child care program and when rendered by the attending pediatrician, family physician, or a pediatric nurse practitioner.

(1) New born examination, heredity and metabolic screening, and newborn circumcision.

(2) Periodic health supervision visits intended to promote the optimal health for infants and children to include the following services:

(i) History and physical examination.  
(ii) Vision, hearing, and dental screening.

(iii) Developmental appraisal to include body measurement.

(iv) Immunizations as recommended by the Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices.

(v) Pediatric blood lead level test.

(vi) Tuberculosis screening.

(vii) Blood pressure screening.

(viii) Measurement of hemoglobin and hematocrit for anemia.

(ix) Urinalysis.

(x) Health guidance and counseling.

(B) Additional services or visits required because of specific findings or because the particular circumstances of the individual case are covered if medically necessary and otherwise authorized for benefits under CHAMPUS.

(C) The Director, OCHAMPUS will determine when such services are separately reimbursable apart from the health supervision visit.

\* \* \* \*

(g) \* \* \*

\* \* \* \*

(37) *Preventive care.* Preventive care, such as routine, annual, or employment-requested physical examinations; routine screening procedures; except that the following are not excluded:

(i) Well-child care.

(ii) Immunizations for individuals age six and older, as recommended by the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices.

(iii) Rabies shots.

(iv) Tetanus shot following an accidental injury.

(v) Rh immune globulin.

(vi) Genetic tests as specified in paragraph (e)(3)(ii) of this section.

(vii) Immunizations and physical examinations provided when required in the case of dependents of active duty military personnel who are traveling outside the United States as a result of an active member's duty assignment and such travel is being performed under orders issued by a Uniformed Service.

(viii) Screening mammography for asymptomatic women 40 years of age and older when provided under the terms and conditions contained in the guidelines adopted by the Director, OCHAMPUS.

(ix) Cancer screening papanicolaou (PAP) test for women who are or have been sexually active, and women 18 years of age and older when provided under the terms and conditions contained in the guidelines adopted by the Director, OCHAMPUS.

(x) Other cancer screenings authorized by 10 U.S.C. 1079.

(xi) Health promotion and disease prevention visits (which may include all of the services provided pursuant to § 199.18(b)(2)) may be provided in connection with immunizations and cancer screening examinations authorized by paragraphs (g)(37)(ii) or (g)(37) (viii) through (x).

\* \* \* \*

(47) *Eye and hearing examinations.* Eye and hearing examinations except as specifically provided in paragraphs (c)(2)(xvi) and (c)(3)(xi) of this section, or except when rendered in connection with medical or surgical treatment of a covered illness or injury.

\* \* \* \*

Dated: October 30, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96-28301 Filed 11-4-96; 8:45 am]

BILLING CODE 5000-04-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[Region 2 Docket NJ24-1b-158; FRL-5643-1]

**Clean Air Act Attainment Extension for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to grant the one (1) year attainment date extension request for the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Carbon Monoxide nonattainment area (NYCMSA) which includes parts of two counties in southwestern Connecticut. EPA's determination to grant the extension is based on the fact that the NYCMSA has demonstrated compliance with the requirements of section 186(a)(4) of the Clean Air Act (CAA). In the Final Rules Section of this Federal Register, EPA is approving the States' request for an extension as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule no further activity is contemplated

in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Comments must be received on or before December 5, 1996.

**ADDRESSES:** All comments should be addressed to: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 25th floor, New York, New York 10007-1866.

Copies of the States' requests and relevant documents are available at the following locations for inspection during normal business hours:

Environmental Protection Agency,  
Region II Office, Air Programs Branch,  
290 Broadway, 25th floor, New York,  
New York 10007-1866

Environmental Protection Agency,  
Region I Office, Air Quality Planning  
Unit, One Congress Street, 11th floor,  
Boston, Massachusetts 02203.

**FOR FURTHER INFORMATION CONTACT:**  
Henry Feingersh, Air Programs Branch,  
Environmental Protection Agency,  
Region II, 290 Broadway, 25th Floor,  
New York, New York 10278, (212) 637-  
4249, or

Wing Chau, Air Quality Planning  
Unit, Environmental Protection Agency,  
Region I, One Congress Street, 11th  
floor, Boston, Massachusetts 02203,  
(617) 565-3570.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: October 15, 1996.

William J. Muszynski,  
*Deputy Regional Administrator.*

[FR Doc. 96-28196 Filed 11-4-96; 8:45 am]

BILLING CODE 6560-50-F

## 40 CFR Part 300

[FRL-5644-6]

### National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Cal West Metals Superfund site from the National Priorities List and request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA), Region 6, announces its intent to delete the Cal West Metals

Superfund site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New Mexico through the New Mexico Environment Department (NMED) have determined that all appropriate actions under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that response activities conducted at the site to date have been protective of public health and the environment.

**DATES:** The EPA will accept comments concerning its proposal for deletion for thirty (30) days after publication of this notice in the Federal Register and a newspaper of record.

**ADDRESSES:** Comments may be mailed to: Ms. Olivia Rodriguez Balandran, Community Relations Coordinator, U.S. EPA, Region 6 (6SF-P), 1445 Ross Avenue, Dallas, Texas 75202-2733, Telephone: (214) 665-6584 or 1-800-533-3508.

#### INFORMATION REPOSITORIES:

Comprehensive information on the Cal West Metals Site as well as information specific to this deletion is available for review at EPA's Region 6 office in Dallas, Texas. The Administrative Records and the Deletion Docket for this deletion are maintained at the following Cal West Metals Site document/information repositories:

U.S. EPA, Region 6, Library, 12th Floor (6MD-II), 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6424 or 665-6427. Hours of Operation: M-F 8:00 a.m. to 4:30 p.m.

Socorro Public Library, 401 Park St., S.W., Socorro, New Mexico (505) 835-1114. Hours of Operation: Mon., Wed., Fri. 9 a.m.-5:30 p.m., T. and Th. 9 a.m.-9:00 p.m., Saturday 10 a.m.-3 p.m.

New Mexico Environment Department, Harold Runnels Building, 1190 St. Francis, P.O. Box 26110, Santa Fe, New Mexico 87502, Phone: (505) 827-2922. Hours of Operation: M-F 8:00 a.m.-5:00 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Agatha B. Benjamin, P.E., Remedial Project Manager (6SF-LN), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone: (214) 665-7292 or 1-800-533-3508

Ms. Maura Hanning, Superfund Program Manager, Groundwater Quality

Bureau, Superfund Oversight Section, New Mexico Environment Department, P.O. Box 26110, Santa Fe, New Mexico 87502, Phone: (505) 827-2922

#### SUPPLEMENTARY INFORMATION:

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II. National Priorities List (NPL) Deletion Criteria

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B. Site Coordinate Boundaries

#### I. Introduction

The U.S. Environmental Protection Agency (EPA), Region 6, announces its intent to delete the Cal West Metals Superfund site, Lemitar, Socorro County, New Mexico, from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Code of Federal Regulations, Title 40 (40 CFR), Part 300, and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action. The EPA will accept comments concerning this proposal for thirty (30) days after publication of this notice in the Federal Register and a newspaper of record. Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

#### II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR § 300.425(e)(1), sites may be deleted from or recategorized on the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required; or

Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Prior to deciding to delete a site from the NPL, EPA must determine that the remedy, or existing site conditions at sites where no action is required, is protective of public health and the environment.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites that have been deleted from the NPL.

### III. Deletion Procedures

Upon determination that at least one of the criteria described in § 300.425(e)(1) has been met, EPA may formally begin deletion procedures. The following procedures were used for the intended deletion of this site:

(1) The EPA, Region 6, has recommended deletion and has prepared the relevant documents.

(2) The State of New Mexico through NMED concurred with the deletion by letter dated September 13, 1996.

(3) Concurrent with this National Notice of Intent to Delete, a local notice has been published in the local newspaper of record and has been distributed to appropriate federal, state, and local officials, and other interested parties. This local notice announces a thirty (30) day public comment period on the deletion package, which commences on the date of publication of this notice in the Federal Register and a newspaper of record.

(4) The EPA, Region 6, has made all relevant documents available at the information repositories listed previously.

This Federal Register notice, and a concurrent notice in the local newspaper in the vicinity of the site, announce the initiation of a 30-day public comment period and the availability for review of the Notice of Intent to Delete. The public is asked to comment on EPA's intention to delete the site from the NPL. All critical documents needed to evaluate EPA's

decision are included in the information repository and deletion docket.

Upon completion of the 30-day public comment period, EPA Region 6 will evaluate these comments before the final decision to delete. The Region will prepare a Responsiveness Summary, to address concerns raised by the comments received during the public comment period. The Responsiveness Summary will be made available to the public at the information repositories. Members of the public are encouraged to contact the EPA, Region 6, Office to obtain a copy of the Responsiveness Summary. If EPA still determines that deletion from the NPL is appropriate after receiving public comments, EPA will publish a Final Notice of Deletion in the Federal Register. However, it is not until a Notice of Deletion is published in the Federal Register that the site would be actually deleted.

### IV. Basis for Intended Site Deletion

The following provides EPA's rationale for the deletion of Cal West Metals Superfund Site from the NPL and EPA's finding that the criteria in 40 CFR § 300.425(e)(1) are satisfied:

#### A. Site History

The Cal West Metals site is located one-half mile northwest of Lemitar and approximately 8 miles north of Socorro in Socorro County, New Mexico as shown in Figure 1. The site is bounded on the east by a frontage road for US Interstate 25. The Interstate is located approximately 250 feet east of the site. Land use is predominantly agricultural and residential. There are three households located within 1,100 feet south of the site.

The Cal West Metals site is a former battery breaking and recycling facility. The Cal West property includes approximately 43.8 acres, of which 12.5 acres are fenced. Site operations were located within the fenced area. The site consisted of two evaporation ponds, three facility buildings, earth berms, soil and battery waste piles, a concrete surface pad, and a salvage area.

Albert and James LaPoint operated the Cal West Metal battery recycling facility and secondary lead smelter. From 1979 to 1981, the facility processed an estimated 20,000 automobile batteries to recover lead, plastics, and hard rubber components for commercial sale. Lead-acid batteries were crushed on-site and the batteries were separated into plastics, hard rubber, and lead oxides. Flootation and centrifugation in a rotating separator drum separated the plastics, hard rubber, and lead fraction. Water was recycled through the separator drum and ultimately

discharged to the lined pond along with waste sludge. After the discharge line became plugged, sludge was disposed of on the concrete surface pad adjacent to the cotton gin building.

Piles of crushed battery components, in various stages of separation, were stored outdoors from the start of operations to approximately 1989. The broken battery piles were stored inside the central building and stockpiled on the concrete pad adjacent (west) to this building.

Cal West has been the subject of numerous State and Federal investigations and regulatory actions since 1979. Preliminary investigations were conducted by NMED, EPA, and the LaPoints from 1981 through 1989.

#### B. Response Actions

From 1979 to 1986, the state conducted investigations to assess air and ground water quality on-site. NMED conducted a CERCLA Site Inspection (SI) of the Cal West site during August 1985 to characterize on-site wastes.

Surface soils and drainage adjacent to the Cal West site were sampled during a CERCLA Site Inspection Follow-up (SIF) performed by NMED during October 1986. Analytical results from the SIF indicate that lead contamination from the Cal West site has migrated via air and surface water run-off to adjacent soils and drainage.

In January 1986, EPA conducted a Resource Conservation and Recovery Act (RCRA) Compliance Monitoring Inspection to further characterize wastes sampled during the 1985 investigation. Extraction Procedure (EP) toxicity analyses were performed on waste samples.

In August 1986, EPA RCRA issued an Administrative Complaint to Cal West and a Notice of Noncompliance to the Small Business Administration based on the 1985 and 1986 inspection findings. The Complaint proposed a penalty, cited RCRA violations, and required clean closure of the site.

In July 1987, EPA and Cal West signed a Consent Agreement and Final Order requiring submittal of a closure plan, soil sampling plan, a hydrogeologic investigation plan, and financial assurance documentation. From 1988 to 1990, The LaPoints conducted ground water monitoring, removed topsoil from the fenced area and installed monitoring wells.

NMED prepared a Superfund Hazard Ranking System package in January 1987. The site was proposed to the CERCLA National Priorities List (NPL) on June 24, 1988. The site was formally added to the Superfund National Priorities List on March 31, 1989.

From October 1990 through October 1991, EPA and the NMED conducted a two-phase remedial investigation to fully determine the nature and extent of contamination and to evaluate the risks posed by site contamination.

The Phase I investigation consisted of sampling and analysis of on-site battery waste piles, soils and three site wells. Samples collected were analyzed for the Target Compound List (TCL) of organic and the Target Analyte List (TAL) of inorganic materials.

Phase II was conducted from September 16, 1991, through October 30, 1991. The Phase II investigations consisted of surface soil sampling, trenching, air sampling, installation of monitor wells, residential and monitor well sampling, a field portable X-ray fluorescence (FPXRF) survey, and depth soil sampling.

Results of the remedial investigation, which included extensive sampling of the source waste materials, site soils, drainage sediments, and ground water indicated the following:

- i. Contaminants for the source waste materials had spread and contaminated the site soils and drainage sediments.

- ii. Lead migration above the recommended residential cleanup level of 640 ppm did not extend deeper than three (3) feet below ground surface.

- iii. Most of the soil contamination at the Cal West Metals site was found at the ground surface level (depth of 6 inches or less).

- iv. The contaminated area covered approximately 8.5 acres of the total 43.8-acre site. Of the total contaminated area, approximately 7.0 acres were located within the 12.5-acre fenced area.
- v. No release to the ground water of contaminants associated with the Cal West site had occurred.

Also, based on the results of the remedial investigation field sampling, lead antimony, arsenic, cadmium, mercury, nickel, silver, and polynuclear aromatic hydrocarbons were selected as the major contaminants of concern (COC) for the human risk assessment.

An Ecological field investigation was conducted during the week of August 12, 1991, by personnel from EPA and NMED. The investigation included sampling of vegetation, lizards and rodents. No adverse ecological impacts attributable to the Cal West site were indicated.

#### *C. Cleanup Standards and Criteria and Results*

The EPA conducted the feasibility study (FS) for the site in-house. The EPA contracted with the U.S. Army Corps of Engineers' Southwestern Division Laboratory (SWD), through an

interagency agreement, to perform treatability studies to evaluate the effectiveness of solidification/stabilization as a treatment for site materials. Information gained during the remedial investigation and treatability studies was used to develop the feasibility study. The feasibility study identified several alternatives to address contamination problems at the site.

As part of the feasibility study, EPA set cleanup goals called remedial action objectives (RAOs) for concentrations of contaminants. These goals were used to determine which areas of the site would require cleanup. For lead, the remedial cleanup goal was set at 640 ppm. This goal was set assuming the site could be used in the future for residential purposes and that adults and children would be exposed to site contaminants if no action was taken. More details of the FS may be found in the Remedial Investigation and Feasibility Study for the Cal West Metals Superfund Site, Lemitar, New Mexico.

Buck J. Wynne, Regional Administrator, EPA, Region 6, signed the Record of Decision on September 29, 1992. EPA and NMED determined that alternative number 3, on-site stabilization, on-site disposal and capping was the most appropriate and protective remedy for the Cal West Metals Site. This determination was based upon consideration of the requirements of CERCLA, the detailed analysis of the alternatives using the nine criteria and public comments from the local community. The description of the selected remedy is:

- Excavation and treatment by stabilization/solidification to meet the health-based cleanup level of 640 mg/kg of approximately 15,000 cubic yards of contaminated soils, sediments, and source waste materials;
- Disposal of the treated contaminated material in an on-site excavation, and capping of the disposal area with cement and a 12 inch soil cover, and;
- Monitoring of site ground water with existing wells down-gradient of the disposal site area.

Construction of the remedy began on May 10, 1994. On May 14, 1994, Eagle Environmental Service, Inc, the subcontractor of the U. S. Bureau of Reclamation (BOR), started collecting composite samples. Five random samples were taken from each 50 foot square grid. Excavation and sampling were conducted in six inch lifts. If material was found to be contaminated after six inches of material, then another six inches was excavated and sampled again. Contaminated soil was hauled to a staging area and stockpiled to be

treated. Contaminated material, mixed with cement and water was transported to the Repository Cell and spread in the cell. A total of 49,723 tons of material was treated: 1,028 tons of battery parts, 212 tons of sediment, and 48,483 tons of contaminated soils. The stabilized material was solidified in the Repository Cell. The Cell was covered with 9,340 linear yards of concrete, three (3) inches deep. The concrete cap (averaged a compressive strength of 4,317 psi. in 28 days) was started in February 1995 and the remediation was completed by April 1995.

The final site completion inspection was conducted on June 12, 1996. More details about construction activities can be found in BOR'S April 1995 Final Construction Report, approved by the EPA in June 1996.

#### *D. O&M Procedures and Site Monitoring Program*

Operation and Maintenance (O&M) activities are performed to protect the integrity of the remedy at the site. Pursuant to 40 CFR § 300.510, the State (NMED) has assumed all responsibility for Operation and Maintenance (O&M) at this site. In accordance with the Superfund State Contract (SSC), beginning one year after the completion of the remedy, NMED will sample four (4) ground water wells annually for the first five years. The wells will then be sampled once every five years for twenty five years. In May 1996, NMED initiated the monitoring program.

Based on the successful encapsulation of hazardous substances in the consolidation cell and the results of O&M monitoring to date, EPA has determined that the remedy is protective, that all appropriate Fund-financed response under CERCLA has been implemented and no further response action is appropriate. State-funded O&M and EPA-funded Five-year Reviews will continue in the future. O&M of the remedy is not considered "further action" and does not bar deletion.

#### *E. Five-Year Review*

Because this remedy will not result in the destruction of the lead contamination from the site, hazardous substances will remain on-site above health-based levels. Therefore, a review of the effectiveness of the remedy will be conducted no later than June 1999.

#### *F. Community Involvement Activities*

Public participation activities for this site were met as required in CERCLA Sections 113(k)(2)(B)(i-v) and 117. EPA conducted numerous public open houses and formal meetings for the Cal

West Metals site, in addition to informal status reports to interested citizens and local officials. Responses to oral and written comments were included in the Responsiveness Summary section of the Record of Decision.

#### G. Protectiveness

All the completion requirements for this site have been met as specified in OSWER Directive 9320.2-3C. Specifically the contaminated soil and sediments have been rendered immobile by solidification/stabilization and the possibility of contact to future residents at the site has been eliminated. The solidified material passed TCLP tests for (leachate) at levels below RCRA regulatory level. The ground water which was not contaminated at the time of the RI is being further protected by the solidification/stabilization and capping of the waste.

The selected remedy is protective of human health and the environment. It complies with the Federal and State of New Mexico requirements that are legally applicable or relevant and appropriate to the remedial action. It is cost-effective. The remedy utilized permanent solutions and alternative treatment technologies to the maximum extent practicable and satisfies the

statutory preference for remedies that employ treatment that reduces toxicity, mobility, or volume as a principal element.

#### H. State Concurrence

In June 1996, a *Final Close Out Report* was prepared in which EPA, in consultation with the State of New Mexico (NMED), determined that all appropriate response actions required to ensure the protectiveness of human health and the environment at the Cal West Metals Superfund site had been implemented.

EPA, with the concurrence of the State of New Mexico, has determined that all appropriate CERCLA response actions at the Cal West Metals Superfund Site have been completed, and that no further response action is appropriate.

Dated: October 10, 1996.

Approved By:

Jerry Clifford,

*Acting Regional Administrator.*

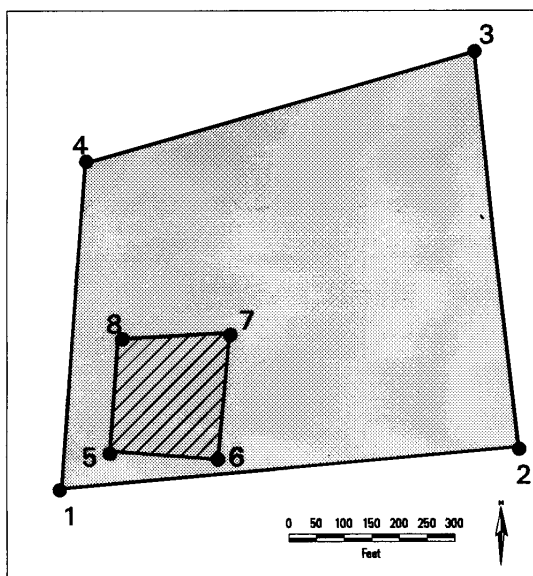
National Priorities List Deletion Docket,  
Cal West Metals Superfund Site,  
Lemitar, Socorro County, New Mexico

- Remedial Investigation/Feasibility Study (RI/FS) Report; U.S. EPA, Region 6, Dallas, Texas

- Record of Decision; U.S. EPA, Region 6, Dallas, Texas, September 92
- Cal West Metals Site Remediation (Contract documents and Specification U. S. Dept. of the Interior, Bureau of Reclamation, October 29, 1993
- Final Construction Report—Volume 1–4; U.S. Department of the Interior, Bureau of Reclamation, April 1995
- Quality Assurance Project Plan; Eagle Construction and Environmental Services, Inc., March 1994
- Site Work Plan; Eagle Construction and Environmental Services, Inc.
- Public Health Assessment; U.S. Dept. of Health & Human Services, July, 1995
- Community Relations Plans; (See the Record of Decision)
- Superfund State Contract
- Preliminary Close Out Report; U.S. EPA, Region 6, Dallas, Texas, September 28, 1995
- Final Close Out Report; U.S. EPA, Region 6, Dallas, Texas, June 1996
- Documentation of State Concurrence on Deletion; New Mexico Environment Department, September 13, 1996

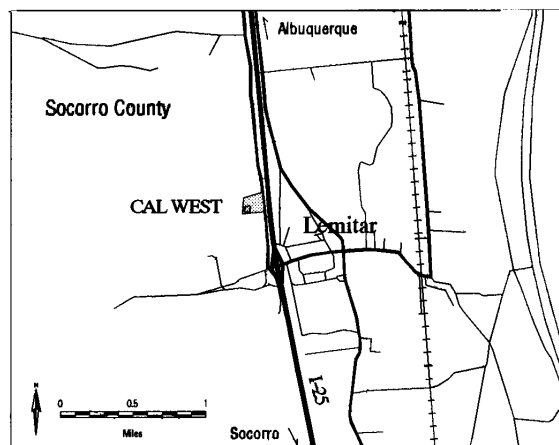
BILLING CODE 6560-50-P

## Cal West Metals Superfund Site Lemitar, New Mexico



Site Coordinates		
Map #	Latitude	Longitude
1.	N 34° 09' 44.68"	W 106° 55' 19.08"
2.	N 34° 09' 45.99"	W 106° 55' 09.31"
3.	N 34° 09' 52.94"	W 106° 55' 10.87"
4.	N 34° 09' 50.47"	W 106° 55' 19.08"
5.	N 34° 09' 45.41"	W 106° 55' 18.09"
6.	N 34° 09' 45.39"	W 106° 55' 15.76"
7.	N 34° 09' 47.66"	W 106° 55' 15.70"
8.	N 34° 09' 47.40"	W 106° 55' 18.09"

- Coordinate Location
- Site Boundary
- ▨ Repository Cell



EPA Region 6, Dallas, TX  
Map Created 10/7/96



Map Compiled by CDSI for EPA Region 6  
EPA Region 6 Albers Feet Projection

NPL Site Boundary digitized from Eagle Construction  
CAL-West Clean-up Site Elevation Map, 4/25/95  
1992 Census Bureau TIGER/Line Files used for base mapping purposes.

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****49 CFR Parts 383 and 391****[FHWA Docket No. MC-93-23]****RIN 2125-AD20****Commercial Driver Physical Qualifications as Part of the Commercial Driver's License Process****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Notice of meeting of negotiated rulemaking advisory committee.

**SUMMARY:** The FHWA announces the meeting date of an advisory committee (the Committee) established under the Federal Advisory Committee Act and the Negotiated Rulemaking Act to consider the relevant issues and attempt to reach a consensus in developing regulations governing the proposed merger of the State-administered commercial driver's license (CDL) procedures of 49 CFR Part 383 and the

driver physical qualifications requirements of 49 CFR Part 391. The Committee is composed of persons who represent the interests that would be substantially affected by the rule.

The FHWA believes that public participation is critical to the success of this proceeding. Participation at meetings is not limited to Committee members. Negotiation sessions are open to the public, so interested parties may observe the negotiations and communicate their views in the appropriate time and manner to Committee members.

For a listing of Committee members, see the notice published on July 23, 1996, 61 FR 38133. Please note that the United Motorcoach Association and the American Bus Association will serve as full members of the Committee. For additional background information on this negotiated rulemaking, see the notice published on April 29, 1996, at 61 FR 18713.

**DATES:** The fourth meeting of the advisory committee will begin at 10:00 a.m. on November 19-20, 1996.

**ADDRESSES:** The fourth meeting of the advisory committee will be held at the Department of Transportation, Nassif Building, Room 10234, 400 7th Street, SW, Washington, D.C. Subsequent meetings will be held at locations to be announced.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Doggett, Office of Motor Carrier Research and Standards, (202) 366-4001, or Ms. Grace Reidy, Office of Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

Authority: 5 U.S.C. §§ 561-570; 5 U.S.C. App. 2 §§ 1-15.

Issued on: October 30, 1996.

Paul L. Brennan,

*Acting Associate Administrator for Motor Carriers.*

[FR Doc. 96-28364 Filed 11-4-96; 8:45 am]

**BILLING CODE 4910-22-P**

# Notices

Federal Register

Vol. 61, No. 215

Tuesday, November 5, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ASSASSINATION RECORDS REVIEW BOARD

### Notice of Formal Determinations, Releases, Corrections, and Reconsideration

**SUMMARY:** The Assassination Records Review Board (Review Board) met in a closed meeting on October 16, 1996, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (Supp. V 1994) (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the Federal Register within 14 days of the date of the decision.

**FOR FURTHER INFORMATION CONTACT:** T. Jeremy Gunn, General Counsel and Associate Director for Research and Analysis, Assassination Records Review Board, Second Floor, Washington, D.C. 20530, (202) 724-0088, fax (202) 724-0457.

**SUPPLEMENTARY INFORMATION:** This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On October 16, 1996, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives.

### Notice of Formal Determinations

For each document, the number of releases of previously redacted information immediately follows the record identification number, followed in turn by the number of postponements sustained, and, where appropriate, the

date the document is scheduled to be released or re-reviewed.

#### FBI Documents: Open in Full

124-10049-10184; 2; 0; n/a  
124-10086-10097; 2; 0; n/a  
124-10101-10094; 2; 0; n/a  
124-10119-10176; 2; 0; n/a  
124-10151-10141; 2; 0; n/a  
124-10169-10001; 6; 0; n/a  
124-10169-10076; 9; 0; n/a  
124-10174-10408; 16; 0; n/a  
124-10174-10415; 4; 0; n/a  
124-10178-10346; 3; 0; n/a  
124-10189-10043; 30; 0; n/a  
124-10189-10045; 30; 0; n/a  
124-10227-10330; 4; 0; n/a  
124-10229-10143; 2; 0; n/a  
124-10231-10237; 7; 0; n/a  
124-10236-10073; 3; 0; n/a  
124-10236-10251; 1; 0; n/a  
124-10236-10279; 5; 0; n/a  
124-10236-10282; 11; 0; n/a  
124-10236-10309; 6; 0; n/a  
124-10236-10312; 2; 0; n/a  
124-10236-10323; 21; 0; n/a  
124-10239-10374; 1; 0; n/a  
124-10255-10245; 1; 0; n/a  
124-10263-10272; 10; 0; n/a  
124-10263-10491; 1; 0; n/a  
124-10264-10255; 8; 0; n/a  
124-10269-10285; 17; 0; n/a  
124-10273-10095; 1; 0; n/a  
124-10275-10292; 1; 0; n/a  
124-10275-10464; 1; 0; n/a

#### HSCA Documents: Open in Full

180-10067-10417; 9; 0; n/a  
180-10101-10353; 88; 0; n/a  
180-10106-10016; 6; 0; n/a  
180-10106-10017; 3; 0; n/a  
180-10111-10066; 19; 0; n/a

#### FBI Documents: Postponed in Part

124-10037-10435; 10; 3; 10/2006  
124-10039-10486; 11; 11; 10/2006  
124-10052-10001; 25; 3; 10/2006  
124-10060-10320; 15; 5; 10/2006  
124-10063-10172; 16; 12; 10/2006  
124-10067-10266; 19; 2; 10/2006  
124-10126-10122; 74; 2; 10/2006  
124-10129-10092; 23; 3; 10/2017  
124-10129-10258; 23; 3; 10/2017  
124-10131-10121; 112; 22; 10/2006  
124-10131-10163; 23; 3; 10/2017  
124-10137-10041; 15; 1; 10/2006  
124-10140-10175; 23; 3; 10/2017  
124-10143-10254; 6; 4; 10/2006  
124-10160-10028; 1; 4; 10/2017  
124-10163-10280; 6; 6; 10/2006  
124-10163-10346; 6; 2; 10/2006  
124-10163-10347; 2; 3; 10/2006  
124-10163-10348; 8; 4; 10/2006  
124-10163-10350; 12; 6; 10/2006  
124-10169-10000; 3; 1; 10/2006  
124-10169-10083; 87; 6; 10/2006  
124-10173-10410; 2; 3; 10/2006  
124-10173-10411; 1; 2; 10/2006  
124-10173-10424; 1; 3; 10/2006  
124-10173-10426; 2; 3; 10/2006

124-10173-10430; 1; 2; 10/2006  
124-10173-10431; 1; 2; 10/2006  
124-10173-10434; 1; 2; 10/2006  
124-10173-10435; 1; 2; 10/2006  
124-10173-10436; 1; 2; 10/2006  
124-10173-10475; 3; 2; 10/2006  
124-10173-10476; 1; 2; 10/2006  
124-10175-10016; 18; 2; 10/2017  
124-10184-10007; 0; 1; 10/2006  
124-10228-10151; 18; 2; 10/2017  
124-10232-10223; 6; 4; 10/2006  
124-10238-10390; 6; 4; 10/2006  
124-10275-10291; 6; 4; 10/2006  
124-10227-10276; 5; 5; 10/2006  
124-10231-10338; 7; 1; 10/2006  
124-10233-10275; 3; 2; 10/2006  
124-10236-10237; 0; 2; 10/2006  
124-10236-10253; 1; 1; 10/2006  
124-10236-10280; 1; 2; 10/2006  
124-10236-10281; 3; 3; 10/2006  
124-10236-10283; 2; 2; 10/2006  
124-10236-10322; 13; 1; 10/2006  
124-10236-10353; 24; 18; 10/2006  
124-10236-10439; 2; 2; 10/2006  
124-10237-10162; 15; 9; 10/2006  
124-10239-10337; 4; 6; 10/2006  
124-10242-10319; 9; 4; 10/2006  
124-10244-10326; 3; 3; 10/2006  
124-10255-10370; 1; 1; 10/2017  
124-10260-10326; 171; 8; 10/2006  
124-10264-10286; 3; 2; 10/2017  
124-10267-10388; 3; 3; 10/2006

#### CIA Documents: Postponed in Part

104-10052-10043; 4; 1; 05/2001  
104-10052-10126; 9; 2; 05/1997  
104-10054-10025; 9; 4; 05/1997  
104-10054-10027; 3; 1; 05/1997  
104-10054-10029; 1; 1; 05/1997  
104-10054-10030; 3; 1; 05/1997  
104-10055-10000; 6; 1; 10/2017  
104-10055-10031; 2; 2; 05/1997  
104-10055-10034; 3; 1; 05/1997  
104-10055-10060; 5; 1; 10/2006  
104-10055-10062; 6; 1; 10/2006  
104-10055-10119; 1; 1; 05/1997  
104-10055-10120; 0; 1; 05/1997  
104-10057-10022; 6; 5; 10/2006  
104-10057-10024; 2; 2; 10/2017  
104-10057-10029; 0; 4; 10/2017  
104-10057-10043; 1; 3; 10/2006  
104-10059-10045; 12; 9; 10/2006  
104-10059-10106; 3; 1; 10/2006  
104-10059-10110; 3; 1; 10/2006  
104-10059-10130; 0; 1; 05/1997  
104-10059-10161; 12; 2; 10/2006  
104-10059-10210; 8; 5; 05/1997  
104-10059-10250; 2; 2; 10/2006  
104-10059-10310; 7; 1; 10/2006  
104-10059-10363; 28; 20; 10/2006  
104-10059-10365; 32; 20; 10/2006  
104-10061-10000; 6; 2; 10/2017  
104-10062-10044; 0; 1; 05/1997  
104-10062-10090; 1; 1; 10/2006  
104-10062-10121; 4; 1; 10/2017  
104-10062-10125; 5; 5; 10/2006  
104-10062-10134; 9; 5; 05/1997  
104-10062-10139; 1; 1; 10/2017

#### HSCA Documents: Postponed in Part

180-10065-10373; 0; 7; 05/1997

180-10065-10407; 0; 1; 10/2017  
 180-10065-10435; 0; 1; 10/2017  
 180-10065-10436; 0; 5; 10/2017  
 180-10070-10476; 0; 1; 10/2017  
 180-10071-10080; 0; 1; 10/2017  
 180-10071-10217; 0; 1; 10/2017  
 180-10074-10330; 0; 1; 10/2017  
 180-10075-10098; 21; 3; 10/2017  
 180-10075-10325; 0; 2; 05/2001  
 180-10076-10371; 0; 1; 10/2017  
 180-10076-10393; 0; 1; 10/2017  
 180-10076-10394; 0; 1; 10/2017  
 180-10077-10020; 0; 4; 05/1997  
 180-10077-10445; 0; 1; 10/2017  
 180-10081-10303; 0; 13; 05/1997  
 180-10089-10471; 0; 1; 10/2017  
 180-10092-10206; 0; 1; 05/1997  
 180-10092-10219; 0; 2; 05/1997  
 180-10092-10221; 1; 1; 10/2006  
 180-10092-10244; 0; 1; 05/1997  
 180-10097-10376; 17; 1; 10/2017  
 180-10104-10354; 3; 2; 10/2017  
 180-10104-10411; 0; 1; 10/2017  
 180-10106-10018; 3; 1; 10/2017  
 180-10107-10001; 0; 1; 05/1997  
 180-10110-10011; 0; 1; 05/1997

#### Notice of Additional Releases

After consultation with appropriate Federal Agencies, the Review Board announces that the following Federal Bureau of Investigation records are now being opened in full:

124-10144-10290; 124-10144-10326;  
 124-10151-10143; 124-10151-10183;  
 124-10151-10194; 124-10164-10061;  
 124-10164-10289; 124-10164-10290;  
 124-10164-10319; 124-10164-10347;  
 124-10167-10146; 124-10167-10158;  
 124-10167-10432; 124-10172-10369;  
 124-10172-10377; 124-10173-10158;  
 124-10173-10159; 124-10173-10160;  
 124-10173-10162; 124-10173-10163;  
 124-10173-10425; 124-10173-10433;  
 124-10173-10438; 124-10173-10442;  
 124-10173-10444; 124-10173-10448;  
 124-10173-10474; 124-10173-10477;  
 124-10173-10479; 124-10174-10002;  
 124-10177-10191; 124-10177-10280;  
 124-10178-10075; 124-10178-10083;  
 124-10178-10141; 124-10178-10144;  
 124-10178-10192; 124-10178-10200;  
 124-10178-10205; 124-10178-10213;  
 124-10178-10305; 124-10178-10317;  
 124-10178-10346; 124-10178-10495;  
 124-10179-10050; 124-10179-10074;  
 124-10179-10077; 124-10182-10112;  
 124-10183-10266; 124-10183-10285;  
 124-10183-10286; 124-10184-10006;  
 124-10184-10010; 124-10184-10011;  
 124-10184-10051; 124-10185-10065;  
 124-10185-10070; 124-10185-10081;  
 124-10188-10459; 124-10227-10220;  
 124-10227-10287; 124-10227-10291;  
 124-10229-10425; 124-10229-10426;  
 124-10229-10486; 124-10229-10489;  
 124-10229-10490; 124-10229-10492;  
 124-10230-10432; 124-10230-10438;  
 124-10230-10440; 124-10230-10442;  
 124-10230-10443; 124-10230-10449;  
 124-10230-10482; 124-10230-10486;  
 124-10230-10490; 124-10230-10494;  
 124-10230-10495; 124-10231-10167;  
 124-10231-10187; 124-10231-10286;  
 124-10231-10294; 124-10231-10313;

124-10231-10332; 124-10231-10334;  
 124-10232-10336; 124-10232-10348;  
 124-10232-10350; 124-10233-10374;  
 124-10233-10375; 124-10233-10379;  
 124-10233-10387; 124-10233-10392;  
 124-10233-10393; 124-10233-10394;  
 124-10233-10395; 124-10233-10409;  
 124-10233-10414; 124-10233-10415;  
 124-10233-10416; 124-10233-10431;  
 124-10233-10437; 124-10233-10441;  
 124-10234-10335; 124-10235-10107;  
 124-10236-10031; 124-10236-10158;  
 124-10236-10251; 124-10236-10276;  
 124-10236-10278; 124-10236-10283;  
 124-10236-10288; 124-10236-10299;  
 124-10236-10337; 124-10236-10366;  
 124-10236-10383; 124-10236-10418;  
 124-10236-10439; 124-10237-10138;  
 124-10237-10139; 124-10237-10143;  
 124-10237-10144; 124-10237-10161;  
 124-10237-10166; 124-10237-10426;  
 124-10238-10229; 124-10238-10357;  
 124-10239-10112; 124-10239-10115;  
 124-10239-10132; 124-10239-10134;  
 124-10239-10143; 124-10239-10166;  
 124-10239-10167; 124-10239-10168;  
 124-10239-10174; 124-10239-10178;  
 124-10239-10185; 124-10239-10209;  
 124-10239-10211; 124-10239-10491;  
 124-10240-10013; 124-10240-10014;  
 124-10240-10018; 124-10240-10019;  
 124-10240-10036; 124-10240-10038;  
 124-10240-10039; 124-10240-10041;  
 124-10240-10046; 124-10240-10047;  
 124-10240-10049; 124-10240-10055;  
 124-10240-10059; 124-10240-10070;  
 124-10240-10077; 124-10240-10081;  
 124-10240-10082; 124-10240-10097;  
 124-10241-10079; 124-10241-10193;  
 124-10241-10221; 124-10241-10267;  
 124-10242-10000; 124-10242-10010;  
 124-10243-10002; 124-10243-10004;  
 124-10243-10007; 124-10243-10022;  
 124-10243-10023; 124-10243-10034;  
 124-10244-10011; 124-10244-10281;  
 124-10244-10302; 124-10244-10374;  
 124-10244-10377; 124-10244-10388;  
 124-10245-10053; 124-10246-10381;  
 124-10247-10173; 124-10247-10312;  
 124-10248-10303; 124-10248-10330;  
 124-10250-10227; 124-10251-10298;  
 124-10251-10409; 124-10253-10049;  
 124-10254-10191; 124-10254-10289;  
 124-10256-10319; 124-10256-10322;  
 124-10256-10373; 124-10258-10189;  
 124-10258-10195; 124-10258-10412;  
 124-10259-10447; 124-10259-10448;  
 124-10260-10105; 124-10260-10169;  
 124-10261-10025; 124-10262-10046;  
 124-10262-10073; 124-10262-10124;  
 124-10263-10013; 124-10264-10476;  
 124-10265-10385; 124-10267-10474;  
 124-10268-10338; 124-10268-10373;  
 124-10269-10280; 124-10269-10282;  
 124-10271-10083; 124-10271-10095;  
 124-10272-10066; 124-10272-10071;  
 124-10273-10207; 124-10273-10215;  
 124-10275-10242; 124-10275-10243;  
 124-10275-10377

After consultation with appropriate Federal Agencies, the Review Board announces that the following Central Intelligence Agency records are now being opened in full:

104-10003-10129; 104-10050-10008;

104-10050-10012; 104-10050-10013;  
 104-10050-10014; 104-10050-10015;  
 104-10050-10016; 104-10050-10022;  
 104-10050-10025; 104-10050-10027;  
 104-10050-10030; 104-10050-10034;  
 104-10050-10036; 104-10050-10037;  
 104-10050-10039; 104-10050-10040;  
 104-10050-10041; 104-10050-10042;  
 104-10050-10044; 104-10050-10047;  
 104-10050-10051; 104-10050-10052;  
 104-10050-10053; 104-10050-10057;  
 104-10050-10058; 104-10050-10059;  
 104-10050-10065; 104-10050-10069;  
 104-10050-10071; 104-10050-10075;  
 104-10050-10078; 104-10050-10081;  
 104-10050-10082; 104-10050-10083;  
 104-10050-10084; 104-10050-10085;  
 104-10050-10088; 104-10050-10090;  
 104-10050-10092; 104-10050-10094;  
 104-10050-10096; 104-10050-10098;  
 104-10050-10100; 104-10050-10102;  
 104-10050-10112; 104-10050-10114;  
 104-10050-10115; 104-10050-10116;  
 104-10050-10117; 104-10050-10120;  
 104-10050-10122; 104-10050-10124;  
 104-10050-10126; 104-10050-10128;  
 104-10050-10130; 104-10050-10132;  
 104-10050-10134; 104-10050-10145;  
 104-10050-10147; 104-10050-10148;  
 104-10050-10160; 104-10050-10163;  
 104-10050-10168; 104-10050-10171;  
 104-10050-10173; 104-10050-10174;  
 104-10050-10176; 104-10050-10179;  
 104-10050-10184; 104-10050-10185;  
 104-10050-10186; 104-10050-10190;  
 104-10050-10193; 104-10050-10194;  
 104-10050-10198; 104-10050-10199;  
 104-10050-10201; 104-10050-10202;  
 104-10050-10203; 104-10050-10209;  
 104-10050-10214; 104-10059-10003;  
 104-10059-10005; 104-10059-10009;  
 104-10059-10014; 104-10059-10015;  
 104-10059-10016; 104-10059-10017;  
 104-10059-10018; 104-10059-10021;  
 104-10059-10022; 104-10059-10035;  
 104-10059-10037; 104-10059-10039;  
 104-10059-10042; 104-10059-10043;  
 104-10059-10048; 104-10059-10054;  
 104-10059-10064; 104-10059-10065;  
 104-10059-10069; 104-10059-10076;  
 104-10059-10080; 104-10059-10083;  
 104-10059-10090; 104-10059-10097;  
 104-10059-10102; 104-10059-10103;  
 104-10059-10118; 104-10059-10123;  
 104-10059-10125; 104-10059-10126;  
 104-10059-10158; 104-10059-10178;  
 104-10059-10180; 104-10059-10183;  
 104-10072-10321

After consultation with appropriate Federal Agencies, the Review Board announces that the following House Select Committee on Assassination records are now being opened in full:

180-10065-10332; 180-10065-10443;  
 180-10065-10471; 180-10065-10483;  
 180-10065-10495; 180-10065-10496;  
 180-10069-10475; 180-10070-10231;  
 180-10070-10307; 180-10070-10384;  
 180-10070-10406; 180-10070-10409;  
 180-10070-10418; 180-10071-10198;  
 180-10071-10220; 180-10071-10230;  
 180-10072-10236; 180-10072-10334;  
 180-10072-10396; 180-10074-10005;  
 180-10074-10051; 180-10074-10122;  
 180-10074-10216; 180-10075-10008;

180-10075-10064; 180-10075-10065;  
180-10075-10066; 180-10075-10077;  
180-10075-10087; 180-10075-10093;  
180-10075-10297; 180-10075-10311;  
180-10075-10326; 180-10075-10327;  
180-10075-10328; 180-10075-10396;  
180-10075-10430; 180-10075-10433;  
180-10075-10438; 180-10075-10443;  
180-10076-10034; 180-10076-10259;  
180-10076-10268; 180-10076-10269;  
180-10077-10069; 180-10077-10110;  
180-10078-10113; 180-10078-10163;  
180-10078-10214; 180-10080-10290;  
180-10080-10291; 180-10080-10293;  
180-10080-10294; 180-10080-10405;  
180-10080-10406; 180-10080-10407;  
180-10081-10348; 180-10082-10134;  
180-10082-10139; 180-10082-10170;  
180-10082-10176; 180-10082-10177;  
180-10082-10178; 180-10082-10179;  
180-10082-10180; 180-10082-10181;  
180-10082-10182; 180-10082-10186;  
180-10082-10212; 180-10082-10213;  
180-10082-10488; 180-10082-10492;  
180-10082-10493; 180-10083-10160;  
180-10083-10188; 180-10083-10211;  
180-10083-10212; 180-10083-10230;  
180-10083-10266; 180-10083-10267;  
180-10083-10268; 180-10083-10463;  
180-10083-10476; 180-10084-10395;  
180-10085-10202; 180-10085-10214;  
180-10085-10216; 180-10085-10282;  
180-10085-10453; 180-10085-10491;  
180-10085-10497; 180-10086-10264;  
180-10088-10007; 180-10088-10022;  
180-10088-10032; 180-10088-10033;  
180-10088-10042; 180-10088-10048;  
180-10088-10053; 180-10088-10055;  
180-10088-10077; 180-10089-10308;

180-10089-10309; 180-10089-10313;  
180-10089-10337; 180-10089-10353;  
180-10089-10356; 180-10090-10055;  
180-10090-10060; 180-10091-10181;  
180-10091-10188; 180-10091-10221;  
180-10091-10222; 180-10091-10395;  
180-10091-10396; 180-10091-10406;  
180-10091-10438; 180-10091-10498;  
180-10093-10018; 180-10093-10019;  
180-10093-10020; 180-10093-10029;  
180-10093-10044; 180-10095-10317;  
180-10095-10424; 180-10096-10034;  
180-10096-10035; 180-10096-10036;  
180-10096-10037; 180-10096-10039;  
180-10096-10040; 180-10096-10041;  
180-10096-10042; 180-10097-10283;  
180-10097-10284; 180-10097-10285;  
180-10097-10286; 180-10097-10287;  
180-10097-10288; 180-10097-10289;  
180-10097-10304; 180-10097-10499;  
180-10099-10075; 180-10099-10079;  
180-10100-10153; 180-10100-10288;  
180-10100-10491; 180-10101-10077;  
180-10101-10080; 180-10101-10426;  
180-10102-10071; 180-10102-10079;  
180-10102-10168; 180-10102-10172;  
180-10102-10192; 180-10102-10207;  
180-10102-10210; 180-10102-10298;  
180-10102-10364; 180-10102-10381;  
180-10102-10385; 180-10102-10397;  
180-10102-10398; 180-10102-10416;  
180-10102-10482; 180-10103-10154;  
180-10103-10156; 180-10104-10097;  
180-10104-10113; 180-10104-10114;  
180-10104-10115; 180-10104-10133;  
180-10104-10212; 180-10104-10213;  
180-10104-10357; 180-10104-10358;  
180-10105-10048; 180-10105-10049;  
180-10105-10059; 180-10105-10161;

180-10105-10183; 180-10107-10042;  
180-10107-10161; 180-10107-10162;  
180-10107-10163; 180-10107-10164;  
180-10107-10165; 180-10107-10166;  
180-10107-10170; 180-10107-10171;  
180-10107-10193; 180-10107-10268;  
180-10107-10271; 180-10107-10272;  
180-10107-10453; 180-10108-10024;  
180-10108-10291; 180-10112-10005;  
180-10113-10409; 180-10113-10412;  
180-10114-10064; 180-10114-10149;  
180-10115-10000; 180-10115-10001

It is the Board's policy to release duplicates of records on the same terms and conditions as those records which it previously voted. The following determinations are noticed pursuant to that policy:

#### FBI Documents, Postponed in Part:

124-10274-10059; 2; 1; 10/2017  
124-10275-10048; 3; 3; 06/2006  
124-10276-10003; 2; 3; 06/2006  
124-10276-10005; 4; 1; 06/2006  
124-10276-10081; 11; 4; 06/2006  
124-10276-10085; 2; 1; 06/2006  
124-10276-10094; 11; 9; 06/2006  
124-10276-10142; 7; 1; 06/2006

#### Notice of Corrections

On July 9-10, 1996, the Review Board made formal determinations that were published in the July 30, 1996 Federal Register (FR Doc. 96-19278, 61 FR 39624). For that notice make the following corrections:

Record No.	Previously published	Correct data
104-10018-10083	1; 1; 10/2017	5; 5; 10/2017
104-10049-10000	2; 6; 12/1996	1; 7; 12/1996
104-10049-10004	2; 2; 15/1997;	0; 4; 05/1997
104-10050-10076	15; 4; 12/1996	15; 6; 12/1996
124-10276-10115	66; 0; n/a	64; 2; 07/2006
124-10276-10122	30; 0; n/a	28; 2; 07/2006

#### Notice of Reconsideration

On October 16, 1996, the FBI provided additional evidence to the

Review Board regarding 1 record that previously had been the subject of Review Board determinations. Upon receiving and evaluating this additional

evidence, the Review Board voted to sustain postponements as follows: From the original Federal Register Notice 96-13838, FR 28158:

Record No.	Number of original releases	Number of original postponements	Number of revised releases	Number of revised postponements	Date of re-revision
124-10067-10448 .....	16	0	10	7	10/2017

Dated: October 30, 1996.

T. Jeremy Gunn,

General Counsel and Associate Director for Research and Analysis.

[FR Doc. 96-28333 Filed 11-4-96; 8:45 am]

BILLING CODE 6118-01-P

#### DEPARTMENT OF COMMERCE

#### Submission For OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the

provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation - 1996 Panel Wave 4.

Form Number(s): SIPP-16303  
Reminder Card, SIPP/CAP Automated Instrument.

Agency Approval Number: 0607-0813.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 117,800 hours.

*Number of Respondents:* 77,000.

*Avg Hours Per Response:* 30 minutes.

*Needs and Uses:* The Bureau of the Census conducts the Survey of Income and Program Participation (SIPP) to collect information from a sample of households concerning the distribution of income received directly as money or indirectly as in-kind benefits. SIPP data are used by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare and transfer payment programs such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Agriculture. The SIPP is a longitudinal survey, in that households in the panel are interviewed 12 times at 4 month intervals or 'waves' over the life of the panel, making the duration of the panel about 4 years. The next panel of households will be introduced in the year 2000. The survey is molded around a central core of labor force and income questions, health insurance questions, and questions concerning government program participation that remain fixed throughout the life of a panel. The core questions are asked at Wave 1 and are updated during subsequent interviews. The core is periodically supplemented with additional questions or topical modules designed to answer specific needs. This request is for clearance of the topical modules to be asked during Wave 4 of the 1996 Panel. The Core questions have already been cleared. Topical modules for waves 5 through 12 will be cleared later. The topical modules for Wave 4 are: 1) Annual Income and Retirement Accounts. 2) Taxes, 3) Work Schedule, 4) Child Care, and 5) Disability. Wave 4 interviews will be conducted from April through July 1997.

*Affected Public:* Individuals or households.

*Frequency:* Every 4 months.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13 U.S.C., Section 182.

*OMB Desk Officer:* Jerry Coffey, (202) 395-7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482-3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 31, 1996.

Linda Engelmeier,

*Acting Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 96-28383 Filed 11-4-96; 8:45 am]

BILLING CODE 3510-07-F

## Bureau of the Census

### Survey of Housing Starts, Sales and Completions

**ACTION:** Proposed agency information collection activity; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before January 6, 1997.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Linda P. Hoyle, Bureau of the Census, Manufacturing and Construction Division, Room 2105, FOB 4, Washington, DC 20233-6900, (301) 457-1321.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Bureau of the Census conducts the Survey of Housing Starts, Sales and Completions, also known as the Survey of Construction (SOC), to collect monthly data on new residential construction from a sample of owners or builders. The data collected includes starts and completions dates of construction, physical characteristics of the structure (floor area, number of bathrooms, type of heating system, etc.), and if applicable, date of sale, sales price, and type of financing. The SOC program provides widely used measures of construction activity, including the economic indicators Housing Starts,

Housing Completions, and New Housing Sales.

Currently, Census Bureau Field Representatives (FRs) mail forms SOC-900.1 and SOC-900A.1, which are facsimiles of the data collection forms, to respondents. The FR then uses paper forms SOC-900 and SOC-900A to record respondents' answers during a later telephone or personal interview.

After July 1997, FRs will collect the data using Computer Assisted Personal Interviewing (CAPI). We have been experimenting with CAPI and have been using this technology on a test basis since November 1995. For CAPI, we will replace the SOC-900.1 and SOC-900A.1 forms with the SOC-QI/SF.1 and SOC-QI/MF.1 forms. We will also replace the SOC-900 and SOC-900A data collection forms with electronic versions. The new data collection forms and the facsimiles mailed to respondents' are virtually the same as the old forms.

The use of CAPI will not affect respondent burden. We are, however, requesting a reduction in burden of 42 hours. This reduction is attributable to our completion of a test of CAPI procedures using 200 test cases which we obtained approval for under this clearance in 1994.

##### II. Method of Collection

The Bureau of the Census uses its FRs to collect the data. The FRs mail a letter with a facsimile of the survey form to owners or builders. The letter tells the owners or builders to retain the form for use when the FR telephones or visits them within a few days. If the FR is unable to conduct an interview, she/he will try to get some information by visiting the construction site. After July 1997, the FRs will collect the data using CAPI.

##### III. Data

*OMB Number:* 0607-0110.

*Form Number:* SOC-900, 900.1, 900A, 900A.1, SOC-QI/SR.1, SOC-QI/MF.1.

*Type of Review:* Regular Submission.

*Affected Public:* Individuals or households, business or other for-profit institutions.

*Estimated Number of Respondents:* 6,800.

*Estimated Responses Per Respondent:* 3.38.

*Estimated Time Per Response:* .209 hours.

*Estimated Total Annual Burden Hours:* 4,807.

*Estimated Total Annual Cost:* The total cost in fiscal year 1996 is \$3,686,200 of which \$1,765,000 is borne by the Department of Housing and Urban Development, and \$1,921,200 is borne by the Bureau of the Census.

Based on information available from our 1992 Census of Construction Industries and the Department of Labor, Bureau of Labor Statistics, 1996–1997 Edition of the *Occupational Outlook Handbook*, “Construction managers,” we estimate the average hourly pay for respondents to be \$24.25. Therefore the total cost to the respondents is \$116,570.

*Respondent's obligation:* Voluntary.

Legal authority: Title 13 USC, Section 182.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 25, 1996.

Linda Engelmeier,  
*Acting Departmental Forms Clearance  
Officer, Office of Management and  
Organization.*

[FR Doc. 96–28384 Filed 11–4–96; 8:45 am]

BILLING CODE 3510–07–P

### Bureau of Economic Analysis

#### Survey of Institutional Remittances to Foreign Countries—BE-40; Proposed Collection; Comment Requested

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before January 6, 1997.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW,

Washington, DC 20230. Phone number: (202) 482–3272.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to: Michael Mann, Chief, Current Account Services Branch, Room 8018, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9573; and fax: (202) 606–5314.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Bureau of Economic Analysis is responsible for the computation and publication of the U.S. balance of payments accounts. The information collected in this survey is an integral part of the “private remittances” portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the Bureau's monthly publication, the *Survey of Current Business*, are one of the major statistical products of BEA. The accounts provide a statistical summary of U.S. international transactions. They are used by government and private organizations for national and international policy formulation, and analytical studies. Without the information collected in this survey, an integral component of the private remittances account would be omitted. No other Government agency collects comprehensive annual data on private unilateral transfers of funds and commodities to foreign countries.

The survey requests information from U.S. religious, charitable, educational, scientific, and similar non-profit organizations on the transfer of gifts, grants, donations, etc., to foreign countries. Information is collected on a quarterly basis from institutions transferring \$1 million or more each year, and annually for all others. Nonprofit organizations with total remittances of less than \$25,000 annually are exempt from reporting.

##### II. Method of Collection

Information is obtained from U.S. religious, charitable, educational, scientific, and similar non-profit organizations who voluntarily agree to provide data regarding transfers of gifts, grants, and/or donations to foreign countries. Submission of the completed report form, or computer printouts in the format of the report form, are the most expedient and economical methods of reporting the information.

##### III. Data

*OMB Number:* 0608–0002.

*Form Number:* BE–40.

*Type of Review:* Regular.

*Affected Public:* U.S. religious, charitable, educational, scientific, and similar non-profit organizations which transfer gifts, grants, and/or donations to foreign countries.

*Estimated Number of Respondents:* 382.

*Estimated Time Per Response:* 1.5 hours per annual reporter; 6.0 hours per quarterly reporter.

*Estimated Total Annual Burden Hours:* 1,212 hours.

*Estimated Total Annual Cost:* The estimated annual cost to the government is \$16,000. The estimated annual cost to the public is \$36,360 based on total number of hours estimated as the reporting burden and an estimated hourly cost of \$30.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Bretton Woods Agreement Act, Section 8, and E.O. 10033, as amended.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 30, 1996.

Linda Engelmeier,  
*Acting Departmental Forms Clearance  
Officer, Office of Management and  
Organization.*

[FR Doc. 96–28302 Filed 11–4–96; 8:45 am]

BILLING CODE 3510–EA–P

**Bureau of Export Administration****[Docket No. 96-1023295-6295-01]****RIN 0694-XX06****Notice of General Order Prohibiting Exports of Unprocessed Timber From Certain Public Lands****AGENCY:** Bureau of Export Administration, Commerce.**ACTION:** Notice; Order on Log Exports.

**SUMMARY:** Section 319 of Title III of Section 101(d) of Title I of Public Law 104-208 requires the Secretary of Commerce to issue an Order concerning the export of timber originating from non-Federal public lands in the western continental United States pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 U.S.C. 620 *et seq.* (1994)). This notice announces the Department's Order and publishes that Order as an appendix to this notice.

**DATES:** Order signed on October 18, 1996.

**FOR FURTHER INFORMATION CONTACT:** Bernard Kritzer, Manager, Short Supply Program, Office of Chemical and Biological Controls and Treaty Compliance, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 482-0894, Fax (202) 482-0751.

**SUPPLEMENTARY INFORMATION:****Background**

Section 319 of Title III of Section 101(d) Title I of Public Law 104-208 requires the Secretary of Commerce to issue an Order extending, through September 30, 1997, the total prohibition contained in Section 491(b)(2)(A) of the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 U.S.C. 620 *et seq.* (1994)) on the export of unprocessed timber originating from public lands in states west of the 100th meridian in the contiguous 48 States with more than 400,000,000 board feet of annual sales volumes of such timber. Section 319 also requires the Department to issue an order, beginning October 1, 1997, for states with annual timber sales in excess 400,000,000 million, allowing the export of such timber that is in excess of 400,000,000 board feet. The Secretary of Commerce has delegated the authority for carrying out the policies and programs necessary to administer laws regarding the control of U.S. exports to the Under Secretary of Commerce for Export Administration. On October 18, 1996, the Under

Secretary of Commerce for Export Administration signed the Order for the above described purposes. The Order is reproduced in the following Appendix.

Dated: October 31, 1996.

Sue E. Eckert,  
*Assistant Secretary for Export Administration.*

**Appendix****General Order Prohibiting Exports of Unprocessed Timber From Certain Public Lands**

This order<sup>1</sup> is issued pursuant to Public Law No. 104-208. Section 319 of Title III of Section 101(d) of Title I of Public Law No. 104-208 requires the Secretary of Commerce to extend, through September 30, 1997, the total prohibition of section 491(b)(2)(A) of the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (the Act) (16 U.S.C. 620 *et seq.* (1994)) on the export of unprocessed timber originating from public lands in states west of the 100th meridian in the contiguous 48 States with more than 400,000,000 board feet of annual sales volumes of such timber. Section 319 also requires the Secretary of Commerce to make effective, on October 1, 1997, the prohibition of section 491(b)(2)(B) of the Act on the export of only the lesser of 400,000,000 board feet or the annual sales volume of unprocessed timber originating from public lands in states west of the 100th meridian in the contiguous 48 States with more than 400,000,000 board feet of annual sales volumes of such timber. As the Secretary of Commerce has delegated the authority for carrying out the policies and programs necessary to administer laws regarding the control of U.S. exports to the Under Secretary for Export Administration, I therefore order the following:

(a) *States with annual sales volumes of greater than 400,000,000 board feet of unprocessed timber originating from state or other public lands.* Notwithstanding any other provision of law, the export, from the United States to any destination, of unprocessed timber originating from public lands in any state located west of the 100th meridian in the contiguous 48 States with annual sales volumes of such timber greater than 400,000,000 board feet is prohibited through September 30, 1997. Effective October 1, 1997, however, only the export, from the United States to any destination, of the lesser of 400,000,000 board feet or the state's annual sales volume of such timber is prohibited. The export of the excess of 400,000,000 board feet of such timber is, therefore, permitted effective October 1, 1997, unless otherwise prohibited by any provision of law. (Section 319 of Title III of Section 101(d) of Title I, Public Law 104-208 and 16 U.S.C. 620c(b)(2)(A) and (B)).

<sup>1</sup> This order does not affect the prohibition on the export of any unprocessed timber originating from public lands in any state located west of the 100th meridian in the contiguous 48 States with annual sales volumes of 400,000,000 board feet or less of such timber. (16 U.S.C. 620c(b)(1) and General Order Prohibiting Exports of Unprocessed Timber from Certain Public Lands, 58 FR 55038 (October 25, 1993)).

(b) *Prohibition on substitution.*

Notwithstanding any other provision of law, all persons are prohibited from purchasing, directly or indirectly, unprocessed timber originating from public lands in a state if: (1) Such unprocessed timber would be used in substitution for exported unprocessed timber originating from private lands in that State; or (2) such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands in that State. (16 U.S.C. 620c(b)(3)(A)).

(c) *Exemption.* The prohibitions in section (b) of this Order do not apply in a state on or after the date on which: (1) The Governor of that state provides the Secretary of Commerce with notification of a prior state program under section 491(d)(2)(C) (16 U.S.C. 620c(d)(2)(C)) of the Act; or (2) the Secretary of Commerce approves a state program under section 491(d)(2)(A) (16 U.S.C. 620c(d)(2)(A)) of the Act; or (3) the Secretary of Commerce issues implementing regulations under the Act, whichever occurs first.<sup>2</sup> (16 U.S.C. 620c(b)(3)(B)).

(d) *Prior contracts.* This Order does not apply to any contract for the purchase of unprocessed timber from public lands entered into before September 10, 1990, with respect to states with annual sales volumes of 400,000,000 board feet or less, or January 1, 1991, with respect to states with annual sales volumes greater than 400,000,000 board feet, or any contract under which exports were permitted pursuant to an Order of the Secretary of Commerce in effect under the Act before October 23, 1992. (16 U.S.C. 620c(e)).

(e) *Western Red Cedar.* This Order shall not be construed to supersede the controls on the export of Western Red Cedar required by section 7(l) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2406(l)), as supplemented by the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), Executive Order 12924 of August 19, 1994 (59 FR 43437, August 27, 1994), and the Presidential Notices of August 15, 1995 and August 14, 1996, and as set out in section 754.4 of the Export Administration Regulations (15 CFR 754.4). (16 U.S.C. 620c(f)).

(f) *Definitions.*

(1) *Public lands.* As defined in section 493(5) (16 U.S.C. 620e(5)) of the Act, "public lands" means lands west of the 100th meridian in the contiguous 48 states that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is:

- (i) held by the United States;
- (ii) held in trust by the United States for the benefit of any Indian tribe or individual;
- (iii) held by any Indian tribe or an individual subject to a restriction by the United States against alienation; or

<sup>2</sup> On June 1, 1995, Secretary Brown gave final approval to the programs of Washington and Oregon.

(iv) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) *Unprocessed Timber*. As defined in section 493(7) (16 U.S.C. 620e(7)) of the Act, the term "unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. The term "unprocessed timber" does not include timber processed into any one of the following:

(i) Lumber or construction timbers, except Western Red Cedar, meeting current American Lumber Standard Grades or Pacific Lumber Inspection Bureau Export "R" or "N" list grades, sawn on 4 sides not intended for remanufacture.

(ii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export "R" or "N" list clear grades, sawn on four sides, not to exceed twelve inches in thickness.

(iii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (ii) and are sawn on four sides, with wane less than one-quarter of any face, not exceeding eight and three-quarters inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes or shingles.

(viii) Aspen or other pulpwood bolts, not exceeding 100 inches in length, export for processing into pulp.

(ix) Pulp logs or cull logs proceed at domestic operations for the purpose of conversion of the logs into chips.

(3) *Substitution*. Consistent with section 493(8) (16 U.S.C. 620e(8)) of the Act, the acquisition of unprocessed timber from public lands west of the 100th meridian in the contiguous 48 states to be used in "substitution" for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such public lands and engaging in export, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

(4) *Acquisition*. As defined in section 493(1) (16 U.S.C. 620e(1)) of the Act, the term "acquire" means to come into possession of whether directly or indirectly through a sale trade exchange, or other transaction and the term "acquisition" means the act of acquiring.

(5) *Person*. As defined in section 493(3) (16 U.S.C. 620e(3)) of the Act, the term "person" means any individual partnership, corporation, association, or other legal entity and includes any subsidiary subcontractor or parent company and business affiliates where one affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

Dated: October 18, 1996.

William A. Reinsch,

*Under Secretary for Export Administration,  
U.S. Department of Commerce.*

[FR Doc. 96-28399 Filed 11-4-96; 8:45 am]

BILLING CODE 3510-33-P

## International Trade Administration

### U.S. Automotive Parts Advisory Committee; Closed Meeting

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Closed meeting of U.S. Automotive Parts Advisory Committee.

**SUMMARY:** The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

**DATE AND LOCATION:** The meeting will be held on December 11, 1996 from 10:00 a.m. to 3:00 p.m. at the U.S. Department of Commerce in Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, D.C. 20230, telephone: (202) 482-1418.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 10, 1996, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open

meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c) (4) and (9) (B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: October 29, 1996.

Henry P. Misisco,

*Director, Office of Automotive Affairs.*

[FR Doc. 96-28349 Filed 11-4-96; 8:45 am]

BILLING CODE 3510-DR-P

## National Oceanic and Atmospheric Administration

[I.D. 102896E]

### North Pacific Fishery Management Council; Committee Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The North Pacific Fishery Management Council (Council) and its advisory bodies will meet the week of December 9, 1996.

**ADDRESSES:** The meetings will be held at the Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK 99501.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

**DATES:** The Advisory Panel (AP) and the Scientific and Statistical Committee (SSC) will begin on December 9, 1996, at 8:00 a.m. and should conclude their meetings by December 12, 1996. The Council will begin their meeting on December 11, 1996, at 8:00 a.m., and will conclude on December 15, 1996. Other committee and workgroup meetings may be held on short notice during the week; notices will be posted at the meeting site. All meetings are open to the public with the exception of Council executive sessions to discuss personnel, international issues, and litigation and meetings of the Nominating Committee, which also discusses personnel. An executive session is tentatively scheduled for noon on December 12.

**FOR FURTHER INFORMATION CONTACT:** Council staff, telephone: 907-271-2809.

**SUPPLEMENTARY INFORMATION:** The agenda for the meetings will include the following subjects:

1. Reports from NMFS and Alaska Department of Fish and Game on the

current status of the fisheries off Alaska, reports on enforcement, and a report on the 1996 sablefish and halibut individual fisheries quota (IFQ) fisheries.

2. Final action on prohibited species catch caps for *opilio* in the Bering Sea/Aleutian Islands (BSAI).

3. Receive committee report and program outline for measures to improve retention and utilization in the groundfish fisheries in the Gulf of Alaska (GOA). Review options paper on limited processing allowances for catcher vessels.

4. Status report on modified pay-as-you-go observer program and related issues.

5. Receive recommendations from IFQ Industry Implementation Team on proposed amendments to the sablefish and halibut IFQ program and task staff as appropriate.

6. Review research priorities and forward recommendations to NMFS.

7. Review status of moratorium on entry for the scallop fishery off Alaska and discuss potential follow-up actions.

8. Review Magnuson-Stevens Act amendments.

9. Review preliminary analysis for individual vessel bycatch accounts and provide further direction to staff.

10. Announce assignments to the AP and the SSC for 1997.

11. Under groundfish management, the following subjects will be discussed and appropriate action taken:

(a) Approve BSAI and GOA Stock Assessment and Fishery Evaluation reports for the 1997 groundfish fisheries.

(b) Approve final harvest and bycatch specifications for 1997 groundfish fisheries in the BSAI and GOA, including discard mortality rates for halibut.

(c) Final action on an amendment to remove dusky rockfish from the GOA pelagic shelf rockfish complex.

(d) Final action on proposed electronic reporting requirements.

(e) Final action on an amendment to reduce percentage allowances for accounting for slime and ice on fish in the IFQ fisheries.

(f) Initial review of an amendment to prohibit a directed fishery on forage fish.

12. Under staff tasking the Council will receive an update on current tasking, review actions taken by the Alaska Board of Fisheries on groundfish issues, review proposals received for amendments to the BSAI and GOA Groundfish Fishery Management Plans and task staff for as appropriate.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907-271-2809, at least 5 working days prior to the meeting date.

Dated: October 30, 1996.

Richard W. Surdi,  
Acting Director, Office of Sustainable  
Fisheries, National Marine Fisheries Service.  
[FR Doc. 96-28363 Filed 11-4-96; 8:45 am]  
BILLING CODE 3510-22-F

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

##### Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

October 30, 1996.

**AGENCY:** Committee for the  
Implementation of Textile Agreements  
(CITA).

**ACTION:** Issuing a directive to the  
Commissioner of Customs adjusting  
limits.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ross  
Arnold, International Trade Specialist,  
Office of Textiles and Apparel, U.S.  
Department of Commerce, (202) 482-  
4212. For information on the quota  
status of these limits, refer to the Quota  
Status Reports posted on the bulletin  
boards of each Customs port or call  
(202) 927-5850. For information on  
embargoes and quota re-openings, call  
(202) 482-3715.

#### SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March  
3, 1972, as amended; section 204 of the  
Agricultural Act of 1956, as amended (7  
U.S.C. 1854); Uruguay Round Agreements  
Act.

The current limits for certain  
categories are being adjusted, variously,  
for swing, special shift and  
carryforward.

A description of the textile and  
apparel categories in terms of HTS  
numbers is available in the  
CORRELATION: Textile and Apparel  
Categories with the Harmonized Tariff  
Schedule of the United States (see  
Federal Register notice 60 FR 65299,  
published on December 19, 1995). Also  
see 60 FR 65290, published on  
December 19, 1995.

The letter to the Commissioner of  
Customs and the actions taken pursuant

to it are not designed to implement all  
of the provisions of the Uruguay Round  
Agreements Act and the Uruguay Round  
Agreement on Textiles and Clothing, but  
are designed to assist only in the  
implementation of certain of their  
provisions.

Troy H. Cribb,

*Chairman, Committee for the Implementation  
of Textile Agreements.*

Committee for the Implementation of Textile  
Agreements

October 30, 1996.

Commissioner of Customs,  
Department of the Treasury, Washington, DC  
20229.

Dear Commissioner: This directive  
amends, but does not cancel, the directive  
issued to you on December 13, 1995, by the  
Chairman, Committee for the Implementation  
of Textile Agreements. That directive  
concerns imports of certain cotton, man-  
made fiber, silk blend and other vegetable  
fiber textiles and textile products, produced  
or manufactured in Bangladesh and exported  
during the twelve-month period which began  
on January 1, 1996 and extends through  
December 31, 1996.

Effective on November 5, 1996, you are  
directed to adjust the limits for the following  
categories, as provided for under the Uruguay  
Round Agreements Act and the Uruguay  
Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit <sup>1</sup>
331 .....	1,109,404 dozen pairs.
341 .....	1,796,491 dozen.
351/651 .....	639,875 dozen.
369-S <sup>2</sup> .....	1,598,741 kilograms.
641 .....	605,212 dozen.
647/648 .....	1,342,636 dozen.
847 .....	149,633 dozen.

<sup>1</sup> The limits have not been adjusted to ac-  
count for any imports exported after December  
31, 1995.

<sup>2</sup> Category 369-S: only HTS number  
6307.10.2005.

The Committee for the Implementation of  
Textile Agreements has determined that  
these actions fall within the foreign affairs  
exception to the rulemaking provisions of 5  
U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

*Chairman, Committee for the Implementation  
of Textile Agreements.*

[FR Doc. 96-28303 Filed 11-4-96; 8:45 am]

BILLING CODE 3510-DR-F

##### Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

October 30, 1996.

**AGENCY:** Committee for the  
Implementation of Textile Agreements  
(CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6704. For information on embargoes and quota re-openings, call (202) 482-3715.

**SUPPLEMENTARY INFORMATION:**

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62410, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,  
*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements  
October 30, 1996.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on November 5, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit <sup>1</sup>
Levels in Group I	
219 .....	8,772,730 square meters.
313 .....	14,605,157 square meters.
314 .....	48,710,247 square meters.
317/617/326 .....	23,467,704 square meters.
331/631 .....	1,821,837 dozen pairs.
340/640 .....	1,518,446 dozen.
351/651 .....	519,612 dozen.
359-C/659-C <sup>2</sup> .....	1,342,177 kilograms.
445/446 .....	64,593 dozen.
611 .....	6,249,772 square meters.
618 .....	2,340,211 square meters.
625/626/627/628/629	23,219,518 square meters.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1995.

<sup>2</sup> Category 359-C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
Troy H. Cribb,  
*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.96-28307 Filed 11-4-96; 8:45 am]

**BILLING CODE 3510-DR-F**

**Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Korea**

October 30, 1996.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** November 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota

Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6707. For information on embargoes and quota re-openings, call (202) 482-3715.

**SUPPLEMENTARY INFORMATION:**

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing, carryover, carryforward, special shift and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62408, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,  
*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

October 30, 1996.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on November 6, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit <sup>1</sup>	Category	Adjusted twelve-month limit <sup>1</sup>
Group I		Sublevel in Group III	
200–223, 224–V <sup>2</sup> , 224–O <sup>3</sup> , 225–229, 300–326, 360– 363, 369–O <sup>4</sup> , 400–414, 464– 469, 600–629, 665–669 and 670– O <sup>5</sup> , as a group.	434,152,227 square meters equivalent.	835 .....	30,700 dozen.
Sublevels within Group I		<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1995. <sup>2</sup> Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020. <sup>3</sup> Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V). <sup>4</sup> Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090 (Category 369–L) and 5601.21.0090. <sup>5</sup> Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L). <sup>6</sup> Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030. <sup>7</sup> Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030. <sup>8</sup> Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.	
200 .....	485,270 kilograms.	The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1). Sincerely, Troy H. Cribb, <i>Chairman, Committee for the Implementation of Textile Agreements.</i> [FR Doc.96–28305 Filed 11–4–96; 8:45 am] <b>BILLING CODE 3510–DR–F</b>	
201 .....	1,855,673 kilograms.	<b>Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Pakistan</b>	
611 .....	3,927,043 square meters	October 30, 1996.	
619/620 .....	100,266,991 square meters.	<b>AGENCY:</b> Committee for the Implementation of Textile Agreements (CITA).	
624 .....	8,446,731 square meters.	<b>ACTION:</b> Issuing a directive to the Commissioner of Customs increasing a limit.	
625/626/627/628/629	16,156,971 square meters.	<b>EFFECTIVE DATE:</b> November 5, 1996.	
Group II		<b>FOR FURTHER INFORMATION CONTACT:</b> Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on	
237, 239, 330–359, 431–459 and 630– 659, as a group.	563,421,928 square meters equivalent.		
Sublevels within Group II			
239 .....	1,048,931 kilograms.		
333/334/335 .....	278,750 dozen of which not more than 142,472 dozen shall be in Category 335.		
336 .....	46,404 dozen.		
338/339 .....	1,239,548 dozen.		
340 .....	704,998 dozen of which not more than 366,058 dozen shall be in Category 340– D <sup>6</sup> .		
341 .....	212,694 dozen.		
342/642 .....	226,698 dozen.		
347/348 .....	549,199 dozen.		
350 .....	17,617 dozen.		
351/651 .....	239,807 dozen.		
352 .....	188,340 dozen.		
433 .....	14,581 dozen.		
434 .....	7,408 dozen.		
435 .....	36,913 dozen.		
442 .....	53,038 dozen.		
444 .....	57,118 numbers.		
445/446 .....	54,698 dozen.		
448 .....	37,311 dozen.		
631 .....	312,175 dozen pairs.		
633/634/635 .....	1,388,488 dozen of which not more than 157,452 dozen shall be in Category 633 and not more than 586,774 dozen shall be in Category 635.		
636 .....	295,136 dozen.		
638/639 .....	5,405,869 dozen.		
640–D <sup>7</sup> .....	3,035,280 dozen.		
641 .....	1,021,340 dozen of which not more than 39,575 dozen shall be in Category 641– Y <sup>8</sup> .		
647/648 .....	1,220,465 dozen.		
650 .....	25,309 dozen.		

embargoes and quota re-openings, call (202) 482–3715.

#### SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Category 338 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62393, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

October 30, 1996.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on November 5, 1996, you are directed to increase the limit for Category 338 to 5,282,194 dozen<sup>1</sup>, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.96–28304 Filed 11–4–96; 8:45 am]

**BILLING CODE 3510–DR–F**

<sup>1</sup> The limit has not been adjusted to account for any imports exported after December 31, 1995.

# Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

October 30, 1996.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6713. For information on embargoes and quota re-openings, call (202) 482-3715.

## SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for carryforward and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62412, published on December 7, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

October 30, 1996.

Commissioner of Customs,  
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and

man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996.

Effective on November 5, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit <sup>1</sup>
Levels in Group I	
239 .....	10,246,231 kilograms.
331/631 .....	5,320,371 dozen pairs.
335 .....	85,125 dozen.
347/348 .....	1,918,426 dozen.
634 .....	555,323 dozen.
635 .....	396,851 dozen.
638/639 .....	2,033,150 dozen.
647/648 .....	1,235,207 dozen.
659-H <sup>2</sup> .....	1,352,836 kilograms.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1995.

<sup>2</sup> Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 96-28306 Filed 11-4-96; 8:45 am]

**BILLING CODE 3510-DR-F**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 9:00 a.m., Friday, November 8, 1996.

**PLACE:** 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Enforcement Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202-418-5100.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 96-28513 Filed 11-1-96; 10:59 am]

**BILLING CODE 6351-01-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Proposed Collection; Comment Request

**AGENCY:** Washington Headquarters Services, DOD.

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Washington Headquarters Services announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received January 6, 1996.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Office of the Secretary of Defense, Washington Headquarters Services, Real Estate & Facilities Directorate, ATTN: Ms. Jennie Blakeney, Room 3C345, The Pentagon, Washington, DC 20301-1155.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Pentagon Parking Management Office, at (703) 697-6251.

*Title, Associated Form, and OMB Number:* Pentagon Reservation Parking Permit Application, DD Form 1199, OMB Number 0704-(to be added).

*Needs and Uses:* The information collection requirement is necessary for the administration and management of the Pentagon's parking control program, which is designed to meet the government mandated car pool program.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 5,000.

*Number of Respondents:* 20,000.

*Responses Per Respondent:* 1.

*Average Burden Per Response:* 15 minutes.

*Frequency:* On occasion and annually.

**SUPPLEMENTARY INFORMATION:****Summary of Information Collection**

Respondents are Department of Defense (DoD) personnel, and other non-DoD personnel who utilize designated parking areas on the Pentagon Reservation. The Pentagon Reservation Parking Permit Application (PRPPA), DD Form 1199, is a machine read form that includes information, such as name, rank or grade, Social Security Number (SSN), and vehicle license plate number, required for the issuance and control of the parking permit. The DD Form 1199 is scanned into a computerized database designed for the administration of the Pentagon's parking control program. Each member of a Pentagon Reservation authorized car pool or individual parking permit holder is required to complete and submit the DD Form 1199 upon initial application and annually thereafter.

Dated: October 25, 1996.

Patricia L. Toppings,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 96-28300 Filed 11-4-96; 8:45 a.m.]

BILLING CODE 5000-04-M

**Defense Advisory Committee on Military Personnel Testing; Notice**

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 4:30 p.m. on November 21, 1996 and from 8:30 a.m. to 4:30 p.m. on November 22, 1996. The meeting will be held at the Inn of the Governors, 234 Don Gaspar, Santa Fe, New Mexico 87501. The purpose of the meeting is to review planned changes and progress in developing paper-and-pencil and computerized enlistment tests, use of the enlistment tests by the Military Services for job assignment purposes, and renorming of the tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management Policy), Room 2B271, The Pentagon, Washington, DC 20301-4000, telephone (703) 697-9271, no later than November 4, 1996.

Dated: October 30, 1996.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 96-28298 Filed 11-4-96; 8:45 am]

BILLING CODE 5000-04-M

**Department of the Air Force****Proposed Collection; Comment Request**

**AGENCY:** United States Air Force Museum System, DOD.

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the United States Air Force Museum System announces the proposed revision of a currently approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by January 6, 1997.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the United States Air Force Museum, 1100 Spaatz Street, Wright-Patterson AFB, OH 45433-7102. ATTN: Ms Bonnie Holtmann, Volunteer Services Administrator.

**FOR FURTHER INFORMATION CONTACT:**

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Volunteer Service Office, at (937) 255-8099, extension 309.

*Title, Associated Form, and OMB Number:* USAF Museum System Volunteer Application/Registration, AF Form 3569, MAR 95, OMB Number 0701-0127.

*Needs and Uses:* The information collection requirement is necessary to provide: (a) the general public an instrument to interface with the USAF Museum System Volunteer Program; (b) the USAF Museum System the means with which to select respondents pursuant to the USAF Museum System Volunteer Program. The primary uses of the information collection includes the evaluation and placement of respondents within the USAF Museum System Volunteer Program.

*Affected Public:* General population civilian, active and retired military individuals.

*Annual Burden Hours:* 68 Hours.

*Number of Respondents:* 271 per annum.

*Responses per Respondent:* 1.

*Average Burden Per Respondent:* 15 minutes.

*Frequency:* One time.

**SUPPLEMENTARY INFORMATION:****Summary of Information Collection**

Respondents are individuals expressing an interest in participating in the USAF Museum System Volunteer Program authorized by 10 U.S.C. 81, Sec 1588 and regulated by Air Force Instruction 84-103. AFI 84-103, paragraph 3.5.3, requires the use of AF Form 3569. AF Form 3569 provides the most expedient means to secure basic personal information (ie, name, telephone number, address and experience pursuant to USAF Museum System Volunteer Program requirements) to be employed solely by the USAF Museum System Volunteer Program to recruit, evaluate and make work assignment decisions. AF Form 3569 is the only instrument that exists which facilitates this purpose. The USAF Museum Volunteer Program is an integral function in the operation of the USAF Museum System. Volunteers provide valuable time, incalculable talent, skill and knowledge to USAF aviation history so that all visitors to the many USAF Museum System facilities throughout the United States may enjoy the important contribution of USAF historical heritage.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 96-28346 Filed 11-4-96; 8:45 am]

BILLING CODE 3910-01-M

**DEPARTMENT OF EDUCATION****Notice of Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before December 5, 1996.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs,

Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: October 30, 1996.

Gloria Parker,  
Director, Information Resources Group.

Office of Postsecondary Education

*Type of Review:* New.

*Title:* William D. Ford Federal Direct Loan Program General Forbearance Form.

*Frequency:* On occasion.

*Affected Public:* Individuals or households.

*Annual Reporting and Recordkeeping Hour Burden:*

*Responses:* 50,000.

*Burden Hours:* 10,000.

*Abstract:* This form is the means by which a William D. Ford Federal Direct Loan Program borrower requests a forbearance when they are willing but unable to make currently scheduled Direct Loan payments due to a temporary financial hardship.

Office of Postsecondary Education

*Type of Review:* Revision.

*Title:* Federal Direct PLUS Loan Application and Promissory Note.

*Frequency:* On occasion.

*Affected Public:* Individuals or households.

*Annual Reporting and Recordkeeping Hour Burden:*

*Responses:* 203,000.

*Burden Hours:* 101,500.

*Abstract:* This information is used to determine applicant eligibility for Federal Direct PLUS Loans. The respondents are parents applying for benefits.

Office of Postsecondary Education

*Type of Review:* Revision.

*Title:* Addendum to Federal Direct PLUS Loan Promissory Note Endorser.

*Frequency:* On occasion.

*Affected Public:* Individuals or households.

*Annual Reporting and Recordkeeping Hour Burden:*

*Responses:* 50,750.

*Burden Hours:* 25,375.

*Abstract:* Applicants for Federal Direct PLUS Loans who have adverse credit may obtain endorsers. The information collected on this form is used to check credit of endorsers. The respondents are endorsers.

Office of Postsecondary Education

*Type of Review:* Revision.

*Title:* Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan Promissory Note and Disclosure.

*Frequency:* On occasion.

*Affected Public:* Individuals or households.

*Annual Reporting and Recordkeeping Hour Burden:*

*Responses:* 2,384,000.

*Burden Hours:* 397,174.

*Abstract:* This form is used to determine applicant eligibility for Federal Direct Stafford/Ford Loans and/or Federal Direct Unsubsidized Stafford/Ford Loans. The respondents are students applying for benefits.

[FR Doc. 96-28332 Filed 11-4-96; 8:45 am]

BILLING CODE 4000-01-P

**Arbitration Panel Decision Under the Randolph-Sheppard Act**

**AGENCY:** Department of Education.

**ACTION:** Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

**SUMMARY:** Notice is hereby given that on June 1, 1996, an arbitration panel rendered a decision in the matter of *Colorado Department of Human Services, Division of Vocational Rehabilitation v. General Services Administration*, (Docket No. R-S/95-1). This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(b), upon receipt of a complaint filed by the Colorado Department of Human Services, Division of Vocational Rehabilitation.

**FOR FURTHER INFORMATION CONTACT:** A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Mary E. Switzer Building, Washington, D.C. 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

**Background**

The dispute in this case involved three buildings located at the Federal Center Office Building in Denver, Colorado. In each of the three buildings, there is a vending facility operated by a licensed blind vendor under the auspices of the Colorado Department of Human Services, Division of Vocational Rehabilitation, the State Licensing Agency (SLA). Also located in each of the three buildings is a full service cafeteria operated by a private concessionaire.

In 1993, the SLA sought support from the General Services Administration (GSA) for its position that the cafeteria contract held by the private concessionaire allowed for duplication of products being sold under permits held by the Randolph-Sheppard vendors and that this represented "direct competition" and, therefore, was in violation of the priority provisions of the Randolph-Sheppard Act (the Act) in 20 U.S.C. 107 *et seq.* and the implementing regulations in 34 CFR Part 395.

On February 8, 1994, a GSA contract specialist prepared a memorandum that supported the SLA's position. On February 15, 1994, the private concessionaire concurred with the SLA's position and submitted to GSA a list of four items that the private concessionaire proposed to discontinue selling in the cafeterias. However, the SLA declined this proposal because these products represented very little sales value to the Randolph-Sheppard vendors.

On November 28, 1994, the SLA filed a request with the Secretary of Education to convene an arbitration panel pursuant to the Act and regulations. Subsequently, on December 22, 1994, staffs of the Vending Facility Branch of the Rehabilitation Services Administration, the SLA, and the GSA central and regional offices held a teleconference in an attempt to resolve the complaint. However, attempts to define separate product lines to be sold by the Randolph-Sheppard vending facilities and the cafeterias operated by the private concessionaire were unsuccessful. On January 23 and 24, 1996, an arbitration hearing was held concerning this complaint.

#### Arbitration Panel Decision

The three issues before the arbitration panel were—

(1) Whether a private concessionaire's sale of the same products as the licensed blind vendors on the same premises is in violation of the priority provisions of the Act and regulations;

(2) Whether a private concessionaire's sale of the same products as the licensed blind vendors on the same premises constitutes direct competition in violation of the Act and regulations; and

(3) Whether GSA can be compelled to provide a blind vendor with a satisfactory site pursuant to the provisions of the Act and regulations.

The majority of the panel held that a private concessionaire's sale of the same products as the licensed blind vendor does not violate the priority provisions of the Act. The panel concluded that the priority provisions of the Act require the property manager to offer the SLA the first opportunity to operate a vending facility on Federal property. However, the panel considered that this does not preclude the possibility that there will be a private concessionaire operating a facility on the same premises as a licensed blind vendor. Consequently, the panel concluded that priority rights do not translate into an exclusive right to sell specific products.

On the second issue concerning direct competition, the majority of the panel held that Congress recognized the

probable existence of direct competition from other vending facilities, including cafeterias. The panel stated that by definition direct competition is "the presence and operation of a vending machine or a vending facility on the same premises as a vending facility operated by a blind vendor." The panel concluded that this language of the Act does not prohibit direct competition except in specific instances that involve vending machines that are in direct competition with a blind vending location. The income generated from vending machines in direct competition with a Randolph-Sheppard vending facility is subject to the income-sharing provisions of the Act.

On the third issue, which concerned a satisfactory site, the majority of the panel determined that the Denver Federal Center building was occupied prior to the 1974 amendments to the Act, and, therefore, the building was not subject to the space requirements for a satisfactory site. The panel did note that GSA had offered to the SLA additional space on the upper floors of the building following their renovation.

One panel member dissented from the majority opinion.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: October 29, 1996.

Howard R. Moses,

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 96-28334 Filed 11-4-96; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF ENERGY

### Extension of the Public Comment Period for the Draft Hanford Remedial Action Environmental Impact Statement and Comprehensive Land Use Plan (DOE/EIS-0222D), Richland, Washington

**AGENCY:** U.S. Department of Energy (DOE).

**ACTION:** Extension of the public comment period.

**SUMMARY:** DOE announces the extension of the public comment period for the Draft Hanford Remedial Action Environmental Impact Statement and Comprehensive Land Use Plan (HRA-EIS).

**DATES:** DOE announced the availability and schedule of the public hearing for the Draft HRA-EIS in the Federal Register on September 10, 1996, (61 FR 47739). In response to requests from the

public, DOE is extending the public comment period from November 1, 1996, to December 10, 1996. Comments received after December 10, 1996, will be considered to the extent practicable in the preparation of the Final HRA-EIS.

**ADDRESSES:** Written comments or requests for further information on the Draft HRA-EIS should be directed to Mr. Thomas W. Ferns, DOE National Environmental Policy Act (NEPA) Document Manager, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, MSIN HO-12, Richland, Washington 99352-0550 or fax to (509) 376-4360. The Draft HRA-EIS is available on the DOE Hanford Internet Home Page at <http://www.hanford.gov/eis/hraeis/hraeis.htm>. A compact disk or a paper copy version of the Draft HRA-EIS is also available, and can be obtained through: (1) Calling the HRA-EIS Hotline at 1-800-786-2018, (2) by fax at (509) 376-4360, or (3) by Internet at Thomas\_W\_Ferns@rl.gov.

**FOR FURTHER INFORMATION CONTACT:** For further information on the DOE NEPA process, contact Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, U.S. Department of Energy, 1000 Independence Avenue, S.W., MSIN EH-42, Washington, D.C. 20585. Ms. Borgstrom may be contacted by telephone at (202) 586-4600 or by leaving a message at 1-800-472-2756.

**SUPPLEMENTARY INFORMATION:** DOE intends to complete the Final HRA-EIS and prepare a response to comments received during the review of the Draft HRA-EIS, and will announce availability of the Final HRA-EIS in the Federal Register.

#### DOE PUBLIC READING ROOMS AND

**INFORMATION REPOSITORIES:** The Draft HRA-EIS and associated reference materials can be found in the following DOE Public Reading Rooms and Information Repositories:

Suzzallo Library, University of Washington, Box 352900, Government Publications Room, Seattle, Washington 98195-2900, (206) 543-1937

Foley Center, Gonzaga University, E 502 Boone Avenue, Spokane, Washington 99258, (509) 324-5931

U. S. Department of Energy Public Reading Room, Washington State University, Tri-Cities Campus, 100 Sprout Road, Room 130 West, Richland, Washington 99352, (509) 376-8583

Branford Price Millar Library, Science and Engineering Floor, Portland State University, SW Harrison and Park, Portland, Oregon 97207, (503) 725-4735

U.S. Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., 1E-190, Washington, DC 20585, (202) 586-3142 or (202) 586-6020

Issued this 30th day of October, 1996.

James M. Owendoff,

*Deputy Assistant Secretary for Environmental Restoration.*

[FR Doc. 96-28365 Filed 11-4-96; 8:45 am]

BILLING CODE 6450-01-P

### **Environmental Management Site-Specific Advisory Board, Rocky Flats**

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

**DATES:** Thursday, November 7, 6:00 pm-9:30 pm.

**ADDRESSES:** Westminster City Hall, 4800 West 92nd Avenue, Westminster, CO 80030 (lower-level multi-purpose room).

**FOR FURTHER INFORMATION CONTACT:** Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420-7855, fax: (303) 420-7579.

**SUPPLEMENTARY INFORMATION:** Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

#### *Tentative Agenda*

(1) Representatives from Rocky Flats will discuss recent fines assessed by the Department of Energy on private contractors doing work at Rocky Flats. These fines, totaling approximately \$75,000, were for violations of nuclear safety rules that occurred earlier this year.

(2) The Board will discuss the draft Ten-Year Plan for Rocky Flats cleanup. Public comment on the plan is being accepted until November 8. At this meeting, Board members will formulate comments on the plan that will be forwarded to DOE.

(3) The Board will also follow up on its soil cleanup levels recommendation for Rocky Flats. Since the last Board meeting, the agencies have adopted their proposed interim standards for cleanup. The Board will discuss issues that may need further study regarding this decision.

### *Public Participation*

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

#### *Minutes*

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420-7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on October 30, 1996.

Gail Cephas,

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 96-28366 Filed 11-4-96; 8:45 am]

BILLING CODE 6450-01-P

### **Advisory Committee for National Electric and Magnetic Fields Research and Public Information Dissemination Program**

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of a meeting of the National Electric and Magnetic Fields Advisory Committee.

**DATES:** Thursday, November 21, 1996: 1:30 p.m.-5:20 p.m.; Friday, November 22, 1996: 9:00 a.m.-2:20 p.m.

**ADDRESSES:** St. Anthony Hotel, 300 E Travis Street, San Antonio, TX, Park NC, 27709.

**FOR FURTHER INFORMATION CONTACT:** Dr. Imre Gyuk, EMF Program Manager, EE-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-1482.

**SUPPLEMENTARY INFORMATION:** The National Electric and Magnetic Fields Advisory Committee advises the Department of Energy and the National Institute of Environmental Health Sciences on the design and implementation of a five-year, national electric and magnetic fields research and public information dissemination program. The Secretary of Energy, pursuant to Section 2118 of the Energy Policy Act of 1992, Public Law 102-486, has overall responsibility for establishing the national program which includes health effects research, development of technologies to assess and manage exposures, and dissemination of information.

#### *Tentative Agenda*

Thursday, November 21, 1996

1:30 p.m. Welcome and opening remarks  
1:45 p.m. National Academy of Sciences report  
1:55 p.m. Status of RAPID program extension  
2:05 p.m. Summary of FY96 non-Federal contributions  
2:15 p.m. Status of NIEHS RAPID program  
2:45 p.m. Status of RAPID engineering research  
3:05 p.m. Record of Expenditures, FY95, FY96 and projected FY97 Budget  
3:30 p.m. Break  
3:50 p.m. Site visits for quality assurance  
4:00 p.m. Function and funding of regional EMF facilities  
4:20 p.m. Summary of replication experiments  
4:40 p.m. Small grants program awards  
5:00 p.m. Animal studies  
5:20 p.m. Adjourn

Friday, November 22, 1996

9:00 a.m. Science workshops  
10:30 a.m. Break  
10:50 a.m. Science review symposium  
12:15 p.m. Lunch  
1:30 p.m. EMF information booklet for workers  
1:40 p.m. Hotlines  
2:00 p.m. NEMFAC Business  
2:20 p.m. Open time for public comments

A final agenda will be available at the meeting.

**Public Participation:** The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Robert Brewer at the

address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Depending on the number of requests, comments may be limited to five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

**Transcript and Minutes:** A transcript and minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Copies of the minutes will also be available by request.

Issued at Washington, DC on October 30, 1996.

Gail Cephas,

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 96-28367 Filed 11-4-96; 8:45 am]

BILLING CODE 6450-01-P

## Energy Information Administration

### Agency Information Collection Under Review by the Office of Management and Budget

**AGENCY:** Energy Information Administration, Department of Energy.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed

use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response  $\times$  proposed frequency of response per year  $\times$  estimated number of likely respondents.)

**DATES:** Comments must be filed on or before December 5, 1996. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

**ADDRESSES:** Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Norma White, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Ms. White may be telephoned at (202) 426-1107, FAX (202) 426-1081, or e-mail at [nwhite@eia.doe.gov](mailto:nwhite@eia.doe.gov).

**SUPPLEMENTARY INFORMATION:** The energy information collection submitted to OMB for review was:

1. EIA-28, Financial Reporting System.
2. Energy Information Administration, OMB No. 1905-0149, Extension of Currently Approved Collection; Mandatory.
3. EIA-28 provides data to evaluate the energy industry's competitive environment, and to analyze energy industry resource development, supply, distribution, and profitability issues. Survey results from 24 major energy producers are published annually for both private and public sector use.
4. Business or other for-profit.
5. 14,904 hours (621 hrs. $\times$ 1 response per year $\times$ 24 respondents).

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

Issued in Washington, DC, October 28, 1996.

Yvonne M. Bishop,

*Director, Office of Statistical Standards, Energy Information Administration.*

[FR Doc. 96-28368 Filed 11-4-96; 8:45 am]

BILLING CODE 6450-01-P

## Federal Energy Regulatory Commission

[Docket No. RP96-283-001]

### Columbia Gulf Transmission Company; Notice of Motion To Withdraw Tariff Sheets, Accept Revised Tariff Sheets and Establish Comment Period of Columbia Gulf Transmission Company

October 30, 1996.

Take notice that on October 15, 1996, Columbia Gulf Transmission Company (Columbia Gulf) filed a motion to withdraw certain tariff sheets, listed on Appendix A to the filing, filed as part of a limited Section 4(e) rate proceeding in Docket No. RP96-283-000 on June 21, 1996, as modified by Columbia Gulf's answer filed on July 17, 1996, to file revised tariff sheets, listed on Appendix B to the filing, and establish a comment period.

Columbia Gulf seeks permission to withdraw certain tariff sheets which reference the Pool Balancing Service and the Title Tracking Service, as well as the related tariff provision in proposed Section 7.6 of the General Terms and Conditions, and requests that the Commission accept certain revised tariff sheets. Columbia Gulf proposes to proceed with the remaining tariff revisions set forth in the June 21, 1996 filing, but agrees to move these remaining tariff revisions into effect consistent with the expiration of the suspension period for the general Section 4(e) rate case, which Columbia Gulf anticipates will be May 1, 1997.

Columbia Gulf further requests that the comment period agreed to at the September 10, 1996 technical conference in this proceeding be extended so that initial comments are due January 15, 1997 and reply comments are due January 30, 1997.

Any person desiring to protest this motion should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,  
Secretary.

[FR Doc. 96-28330 Filed 11-4-96; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 11530-000 Iowa]

**Mitchell County Conservation Board;  
Notice of Availability of Draft  
Environmental Assessment**

October 30, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for initial license for the Mitchell Mill Dam Hydroelectric Project, located on the Cedar River, in Mitchell County, Iowa, and has prepared a Draft Environmental Assessment (DEA) for the project.

Copies of the DEA are available for review in the Public Reference Branch, Room 2-A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1-A, Washington, D.C. 20426. Please reference Project No. 11530-000 to all comments. For further information, please contact Nancy Beals at (202) 219-2178.

Lois D. Cashell,  
Secretary.

[FR Doc. 96-28329 Filed 11-4-96; 8:45 am]

BILLING CODE 6717-01-M

**ENVIRONMENTAL PROTECTION  
AGENCY**

[FRL-5647-6]

**Announcement of Application Deadline  
for the Competition for the 1997  
National Brownfields Assessment  
Demonstration Pilots**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Application Deadlines and Revised Guidelines.

**SUMMARY:** The United States Environmental Protection Agency (EPA) will begin to accept proposals for the National Brownfields Assessment Pilots. The brownfields assessment pilots (each funded up to \$200,000 over two years)

test assessment, models in the context of cleanup and redevelopment planning, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated environmental cleanup and redevelopment efforts at the federal, state, and local levels. EPA expects to select 25 additional National Brownfields Assessment Pilots by March 1997. The deadline for new applications for the 1997 assessment pilots is January 13, 1997. Previously unsuccessful applicants are advised that they must revise and resubmit their applications. Applications submitted before November 1, 1996, will *not* be considered for the 1997 National Brownfields Assessment Pilots.

The National Brownfields Assessment Pilots are administered on a competitive basis. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the newly revised application booklet *The Brownfields Economic Redevelopment Initiative: Application Guidelines for Brownfields Assessment Demonstration Pilots* (October 1996).

**DATES:** Applications will be accepted as of November 1, 1996 through January 13, 1997. All proposals must be postmarked or sent to EPA via registered or tracked mail by January 13, 1997.

**ADDRESSES:** Application booklets can be obtained by calling the Superfund Hotline at the following numbers: Washington, DC metro area at 703-412-9810; outside Washington, DC metro area at 1-800-424-9346; TDD for the Hearing Impaired at 1-800-553-7672.

Booklets may also be obtained by writing to: U.S. EPA—Brownfields Application, Superfund Document Center (5201G), 401 M Street, SW, Washington, DC 20460. Copies of the Booklet are available via the Internet: <http://www.epa.gov/brownfields/>  
**FOR FURTHER INFORMATION CONTACT:** The Superfund Hotline at 1-800-424-9346 or contact Katherine Dawes, U.S. EPA, Office of Solid Waste and Emergency Response, 202-260-8394.

**SUPPLEMENTARY INFORMATION:** As a part of the Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative, the Brownfields Assessment Demonstration Pilots are designed to empower States, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up and sustainably reuse brownfields. EPA has awarded cooperative agreements to States, cities,

towns, counties and Tribes for demonstration pilots that test brownfields assessment models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated public and private efforts at the Federal, State and local levels. To date, the Agency has funded 76 Brownfields Assessment Pilots. Of those pilots, 39 are National Pilots selected under criteria developed by EPA Headquarters and 37 are Regional Pilots selected by EPA Regions under criteria developed by their offices.

EPA's goal is to select a broad array of assessment pilots that will serve as models for other communities across the nation. EPA seeks to identify applications that demonstrate the integration or linking of brownfields assessment pilots with other federal, state, tribal, and local sustainable development, community revitalization, and pollution prevention programs. Special consideration will be given to Empowerment Zones and Enterprise Communities (EZ/ECs) and communities with populations of under 100,000. (EPA will conduct a special outreach effort to address the unique needs of Indian Tribes.) These pilots focus on EPA's primary mission—protecting human health and the environment. However, it is an essential piece of the nation's overall community revitalization efforts. EPA works closely with other federal agencies through the Interagency Working Group on Brownfields, and builds relationships with other stakeholders on the national and local levels to develop coordinated approaches for community revitalization.

Funding for the brownfields assessment pilots is authorized under Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA or Superfund), 42 U.S.C. 9604(d)(1). States, cities, towns, counties, U.S. Territories, and Indian Tribes are eligible to apply. EPA welcomes and encourages applications from coalitions of such entities, but a single eligible entity must be identified as the legal recipient. Cooperative agreement funds will be awarded only to a state or to an officially recognized political subdivision of a state. For non-state applicants, please include statement verifying that entity has been authorized by the state to exercise governmental powers.

Through a brownfields cooperative agreement, EPA authorizes an eligible state, political subdivision, Territory, or Indian Tribe to undertake activities that

EPA itself has the authority to pursue under CERCLA sections 104(a) or 104(b). All restrictions on EPA's use of funding cited in CERCLA section 104 also apply to brownfields assessment pilot cooperative agreement recipients.

The proposal evaluation panels will review the proposals carefully and assess each response based on how well it addresses the selection criteria, briefly outlined below:

1. Problem Statement and Needs Assessment (4 points out of 20)
  - Effect of Brownfields on your Community or Communities
  - Value Added by Federal Support
2. Community-Based Planning and Involvement (6 points out of 20)
  - Existing Local Commitment
  - Community Involvement Plan
  - Environmental Justice Plan
3. Implementation Planning (6 points out of 20)
  - Appropriate Authority and Government Support
  - Environmental Site Assessment Plan
  - Proposed Cleanup Funding Mechanisms
  - Flow of Ownership Plan
4. Long-Term Benefits and Sustainability (4 points out of 20)
  - National Replicability
  - Measures of Success

Dated: October 30, 1996.

Linda Garczynski,  
Director, Outreach and Special Projects Staff,  
Office of Solid Waste and Emergency Response.

[FR Doc. 96-28433 Filed 11-4-96; 8:45 am]

BILLING CODE 6560-50-P

[PF-672; FRL-5572-8]

## Pesticide Tolerance Petition; Notice of Filing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of filing.

**SUMMARY:** This notice is a summary of a pesticide petition proposing the extension of time-limited tolerances for combined residues of 4-(dichloroacetyl)-3,4-dihydro-3-methyl-2H-1,4-benzoxazine (benoxacor) when used as an inert ingredient (safener) in pesticide formulations containing metolachlor in or on raw agricultural commodities for which tolerances have been established for metolachlor. This summary was prepared by the petitioner.

**DATES:** Comments, identified by the docket number [PF-672], must be received on or before December 5, 1996.

**ADDRESSES:** By mail, submit written comments to: Public Response and

Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. In person, bring comments to: Rm. 1132 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF-672]. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted as comments concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). No CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail, Kerry B. Leifer, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. Office location and telephone number: Rm. 6-F, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8811; e-mail: leifer.kerry@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA has received a pesticide petition (PP) 7E3489 from Ciba Crop Protection, Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C section 346a (d), to amend 40 CFR part 180 by extending a time-limited tolerance for combined residues of 4-(dichloroacetyl)-3,4-dihydro-3-methyl-2H-1,4-benzoxazine (benoxacor) when used as an inert ingredient

(safener) in pesticide formulations containing metolachlor in or on raw agricultural commodities for which tolerances have been established for metolachlor from December 1, 1996 to December 1, 1998. The proposed analytical method is capillary gas chromatography using Nitrogen/Phosphorous (N/P) detection.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Ciba-Geigy Corporation has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Ciba-Geigy and EPA has not fully evaluated the merits of the petition. EPA edited the summary to clarify that the conclusions and arguments were the petitioner's and not necessarily EPA's and to remove certain extraneous material.

## I. Ciba-Geigy Petition Summary:

### 1. Residue Chemistry

#### A. Plant/Animal Metabolism

Ciba Crop Protection (Ciba) notes that the metabolism in plants and animals (goat, hen, and rat) is well understood. Identified metabolic pathways are similar in plants and animals.

#### B. Analytical Method

Ciba Analytical Method AG536(C) is available and involves extraction, filtering, dilution, partitioning, and cleanup. Samples are then analyzed by capillary gas chromatography using Nitrogen/Phosphorous (N/P) detection. The limit of quantitation (LOQ) is 0.01 ppm.

#### C. Magnitude of the Residues

More than 30 residue trials were conducted in 19 states on a variety of agricultural crops [corn (field and sweet); soybeans, potatoes, green beans, radishes, sorghum, peanuts, head lettuce, peas]. There were no detectable residues of benoxacor at the limit of quantitation (LOQ) of 0.01 ppm (many samples were analyzed at an LOQ of 0.005 ppm and no residues were detected) in any raw agricultural commodity or processed commodity. No transfer of residue to animals is expected through their diet. Benoxacor is stable for a minimum of 12 months at temperatures down to -15°C.

## 2. Toxicological Profile

The following studies were submitted in support of this petition:

#### A. Acute toxicity

A rat acute oral study with an LD50 > 5000 mg/kg, a rabbit acute dermal study with an LD50 > 2010 mg/kg, a rat inhalation study with an LC50 > 2000 mg/liter, a primary eye irritation study in the rabbit showing moderate eye

irritation, a primary dermal irritation study in the rabbit showing benoxacor is not a skin irritant, and a skin sensitization study which showed benoxacor to be a skin sensitizer in the Guinea pig. Results of a dermal absorption study show a maximum of 55.7% of benoxacor is absorbed by the rat following a 24 hour dermal exposure.

Benoxacor was applied to the shaved skin of 5 male and 5 female New Zealand White rabbits at dose levels of 0, 1, 500, or 1010 mg/kg for at least 22 consecutive days. This study showed benoxacor is not dermally toxic at doses greater than the limit dose of 1000 mg/kg/day.

#### B. Genotoxicity

Benoxacor did not induce point mutations *in vitro* at limit (cytotoxic) concentrations in a Salmonella/mammalian microsome test or show any mutagenic activity in the Chinese hamster V79 mammalian point mutation test and is neither clastogenic nor aneugenic in the Chinese hamster at doses up to the limit dose of 5000 mg/kg. Benoxacor did not induce unscheduled DNA synthesis in isolated rat hepatocytes at cytotoxic concentrations up to 20  $\mu$ g/ml.

#### C. Developmental and Reproductive Toxicity

A developmental toxicity study in the rat at doses of 0, 1, 100, or 400 mg/kg/day by gavage with maternal and developmental NOEL's of 1 mg/kg/day. Maternal, embryo, and fetal toxicity were observed at doses > 100 mg/kg/day.

A developmental toxicity study in the rabbit at doses of 0, 0.5, 2.5, 12.5 or 62.5 mg/kg/day. Slight evidence of maternal and fetal toxicity was observed at 62.5 mg/kg/day. The maternal and developmental NOEL's were 12.5 mg/kg/day and 62.5 mg/kg/day, respectively.

A two-generation reproduction study in the rat at doses of 0, 10, 50, 500, or 1000 ppm with a NOEL of 50 ppm. No effects on fertility, reproductive performance or development were seen in the rat at a maximally-tolerated dose of 1000 ppm. Treatment related effects on body weight at feeding levels of > 500 ppm were accompanied by marginally reduced food intake only in the 1000 ppm group.

#### D. Subchronic Toxicity

Six groups of 15 male and 15 female Sprague Dawley rats were fed benoxacor at dietary concentrations of 0, 10, 100, 300, 1000, or 6000 ppm for 13 weeks. The liver (pigmentation, karyomegaly, cytomegaly, bile duct proliferation, portal mononuclear cell infiltration) and stomach (pyloric gland degeneration and necrosis) were identified as target

organs in the 6000 ppm group. Based on a significant depression of body weight gain at 1000 and 6000 ppm as well as hematology, clinical chemistry and pathology findings, the NOEL was determined to be 300 ppm.

A 90-day feeding study in the dog at doses of 0, 0.25, 1, 5, 50, 150, or 400 mg/kg/day. Liver, kidney, stomach, and thymus were identified as target organs. The NOEL was 50 mg/kg/day. The maximum tolerated dose was exceeded at > 150 mg/kg/day.

A 90-day feeding study in CD-1 mice at dietary concentrations of 0, 50, 500, 2000 or 6000 ppm for 90 days. Effects on survival, clinical signs, body weight, food consumption, the hematological system, and liver and kidney were seen at 6000 ppm and to a lesser extent at 2000 ppm. The NOEL was 500 ppm.

#### E. Chronic Toxicity

A 52-week feeding study in the dog at doses of 0, 1, 5, 40, or 80 mg/kg. Liver and kidney were identified as target organs and the NOEL was established at 5 mg/kg.

An 18-month oncogenicity study in the mouse at doses of 0, 10, 30, 600, or 1200 ppm with a NOEL of 30 ppm (4.2 mg/kg/day) for both chronic toxicity and tumors. Target organs were the liver and forestomach. A carcinogenic response was noted in the forestomach and is likely to be linked to a non-genotoxic mode of action involving direct irritation to the epithelial lining of the forestomach and limiting ridge between the non-glandular and glandular stomach.

A 24 month chronic feeding and oncogenicity study in the rat at doses of 0, 10, 50, 500, or 1000 ppm. Liver and forestomach were identified as target organs. A carcinogenic response was seen in the forestomach and is likely linked to a non-genotoxic mode of action involving direct irritation to the epithelial lining of the forestomach and the limiting ridge. The NOEL for tumors was 500 ppm (25 mg/kg/day) and the NOEL for chronic toxicity was 10 ppm (0.5 mg/kg/day).

Based on the available chronic toxicity data, Ciba Crop Protection believes the RfD for benoxacor is 0.002 milligrams (mg)/kilogram(kg)/day based on a 2-year feeding study in rats with a No-Observed Adverse Effect Level (NOAEL) of 0.5 mg/kg/day and an uncertainty factor of 300. For this action, Ciba has used the NOAEL instead of a NOEL because of slight effects noted on target organs at the low dose of 0.5 mg/kg/day used in the chronic rat study. The use of a 300-fold safety factor takes into account these changes and the reference dose derived

in this manner will provide an adequate safety margin for human exposure.

Using the Guidelines for Carcinogenic Risk Assessment published September 24, 1986 (51 FR 33992), Ciba believes the Agency will classify benoxacor as a Group C carcinogen (possible human carcinogen) based on findings of a carcinogenicity effect in the non-glandular stomach of both rats and mice. Because this carcinogenic response was only observed at high doses in the non-glandular stomach of the rodent, an anatomical structure not found in humans, it is likely this response occurred via a non-genotoxic, threshold based mechanism. Ciba believes exposure to benoxacor should be regulated using a margin of exposure approach where the carcinogenic NOEL established in the most sensitive species, the mouse, was 4.2 mg/kg/day.

### 3. Aggregate Exposure

#### A. Dietary exposure

##### 1) Food

For purposes of assessing the potential dietary exposure under the proposed tolerances, Ciba has estimated aggregate exposure based on the theoretical maximum residue contribution (TMRC) from the benoxacor tolerance of 0.01 ppm in or on raw agricultural commodities for which tolerances have been established for metolachlor. In conducting this exposure assessment, Ciba has made very conservative assumptions--100% of all raw agricultural products for which tolerances have been established for metolachlor will contain benoxacor residues and those residues would be at the level of the tolerance (0.01 ppm)--which result in an overestimate of human exposure.

##### 2) Drinking water

Although benoxacor is mobile and hydrolyzes slowly at low pHs, it rapidly degrades in the soil (half-life of 49 days under aerobic conditions and 70 days anaerobically). Based on this data, Ciba does not anticipate exposure to residues of benoxacor in drinking water. This is supported by extensive experience with metolachlor, where in large scale ground water monitoring studies, metolachlor has been detected in less than 4% of the samples with the typical value being 1 ppb or less. Since benoxacor is formulated as a 1 to 30 or 1 to 20 ratio with metolachlor and acetamide, respectively, (maximum of 0.2 pounds benoxacor per acre) the presence of benoxacor in groundwater is highly unlikely. The EPA has not established a Maximum Concentration Level for residues of benoxacor in drinking water.

#### B. Non-Dietary Exposures

Ciba has evaluated the estimated non-occupational exposure to benoxacor and based on its low use rate concludes that the potential for non-occupational exposure to the general population is unlikely except for the potential residues in food crops discussed above. Benoxacor is used only on agricultural crops and is not used in or around the home.

#### 4. Cumulative Effects

Ciba also considered the potential for cumulative effects of benoxacor and other substances that have a common mechanism of toxicity. Ciba concluded that consideration of a common mechanism of toxicity is not appropriate at this time. Ciba does not have any reliable information to indicate that toxic effects seen at high doses of benoxacor (generalized liver toxicity, nephrotoxicity and the occurrence of forestomach tumors in an organ not present in humans) would be cumulative with those of any other chemical compounds; thus Ciba is considering only the potential risks of benoxacor in its aggregate exposure assessment.

#### 5. Safety Determination

##### A. U.S. Population

Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data base for benoxacor, Ciba has calculated that aggregate exposure to benoxacor will utilize 9.4% of the RfD for the U.S. population based on chronic toxicity endpoints and only 0.4% based on a margin of exposure assessment and a carcinogenic NOEL of 4.2 mg/kg/day. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Ciba concludes that there is a reasonable certainty that no harm will result from aggregate exposure to benoxacor residues.

##### B. Infants and Children

Using the same conservative exposure assumptions used for the determination

in the general population, Ciba has concluded that the percent of the RfD that will be utilized by aggregate exposure to residues of benoxacor is 10.5% for nursing infants less than 1 year old, 40.4% for non-nursing infants, 23.8% for children 1–6 years old and 15.4% for children 7–12 years old. These worst case estimates are likely at least 4 times greater than actual values when considering that benoxacor residues have not been detected at the limit of quantitation of 0.005 ppm (tolerance is 0.01 ppm) and using a more realistic market share of 50% rather than the conservative 100%. Therefore, based on the completeness and reliability of the toxicity data base and the conservative exposure assessment, Ciba concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to benoxacor residues.

#### 6. International Tolerances

A maximum residue level has not been established for benoxacor by the Codex Alimentarius Commission.

#### II. Administrative Matters:

Interested persons are invited to submit comments on this notice of filing. Comments must bear a notation indicating the document control number, [PF-672].

A record has been established for this rulemaking under docket number [PF-672] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:  
opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official notice record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

#### List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 31, 1996.

Stephen L. Johnson,  
Director, Registration Division, Office of  
Pesticide Programs.

[FR Doc. 96-28551 Filed 11-1-96; 1:38 pm]

BILLING CODE 6560-50-F

## FEDERAL COMMUNICATIONS COMMISSION

### Sunshine Act Meeting

October 31, 1996.

Deletion of Agenda Item From October 29th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the October 29, 1996, Open Meeting and previously listed in the Commission's Notice of October 22, 1996 (61 FR 55637, October 28, 1996).

Item No.	Bureau	Subject
2 .....	Wireless Telecommunications .....	Title: Amendment of the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation (WTDocket No. 95-157, RM-8643). Summary: The Commission will consider action concerning the relocation of microwave incumbents in the 2 GHz band.

Federal Communications Commission  
William F. Caton,  
*Acting Secretary.*  
[FR Doc. 96-28511 Filed 11-1-96; 10:42 am]  
BILLING CODE 6712-01-M

**[Report No. 2160]**

**Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings**

October 30, 1996.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857-3800. Oppositions to these petitions must be filed by November 20, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Access to Telecommunications Equipment and Services by Persons With Disabilities. (CC Docket No. 87-124)

Number of Petitions Filed: 1

Subject: Petition to amend Part 68 of the Commission's Rules to Include Terminal Equipment Connected to Basic Rate Access Service Provided via Integrated Services Digital Network Access Technology. (CC Docket No. 93-268)

Petition to amend Part 68 of the Commission's Rules to include Terminal Equipment connected to Public Switched Digital Services. (RM-7815, RM-6147)

Number of Petitions Filed: 1

Subject: Preemption of Local Zoning Regulation of Satellite Earth Stations. (IB Docket No. 95-59)

Implementation of Section 207 of the Telecommunications Act of 1996; Restrictions on Over-the-Air Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service. (CS Docket No. 96-83)

Number of Petitions Filed: 8

Subject: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996. (CC Docket No. 96-98)

Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers. (CC Docket 95-185)

Number of Petitions Filed: 20 \*

\* These filings include the petition filed by SBC Communications Inc. and Southwestern Bell Telephone Company on October 8, 1996, one day after the filing deadline of October 7, 1996. On October 8, 1996, SBC Communications Inc. and Southwestern Bell Telephone Company also filed a Motion to Accept its Late-Filed Pleading.

Federal Communications Commission  
William F. Caton,  
*Acting Secretary.*  
[FR Doc. 96-28327 Filed 11-4-96; 8:45 am]  
BILLING CODE 6712-01-M

**FEDERAL MARITIME COMMISSION**

**Notice of Agreement(s) Filed**

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 217-011553-001.

*Title:* CSAV/Nacional Space Charter Agreement.

*Parties:*

Companhia Maritime Nacional  
("Nacional")

Compania Sud Americana de Vapores S.A. ("CSAV")

*Synopsis:* The proposed Agreement modifies the space charter provision to include the chartering of space from Nacional to CSAV. The parties have requested a shortened review period.

*Agreement No.:* 224-201000.

*Title:* Port of San Francisco/Flota Mercante Grancolombiana, S.A. (FMG) Serpac Service Terminal Agreement.

*Parties:*

Port of San Francisco ("Port")  
Flota Mercante Grancolombiana, S.A. ("FMG")

*Synopsis:* The proposed Agreement permits FMG the nonexclusive right to use the Port's South Container Terminal under terms and conditions set forth in the Agreement. The term of the Agreement is five years.

*Agreement No.:* 224-201001.

*Title:* Port of San Francisco/Columbus Line Serpac Service Terminal Agreement.

*Parties:*

Port of San Francisco ("Port")  
Columbus Line ("Columbus")

*Synopsis:* The proposed Agreement permits Columbus the non-exclusive right to use the Port's South Container Terminal under terms and conditions set forth in the Agreement. The term of the Agreement is five years.

*Agreement No.:* 224-201002.

*Title:* Port of San Francisco/Compania Sud Americana De Vapores, S.A. (CSAV) SERPAC Service Marine Terminal Agreement.

*Parties:*

Port of San Francisco  
Compania Sud Americana De Vapores, S.A. ("CSAV")

*Synopsis:* The proposed Agreement allows CSAV the non-exclusive right to use the South Container Terminal at the Port of San Francisco under terms and conditions set forth in the Agreement. The term of the Agreement is for five years.

*Agreement No.:* 224-201003.

*Title:* City of Los Angeles and Matson Terminals, Inc., Marine Terminal Permit No. 776.

*Parties:*

City of Los Angeles  
Matson Terminals, Inc.

*Synopsis:* The proposed Agreement is a revenue sharing agreement granted by the City of Los Angeles to Matson Terminals, Inc. under permit No. 776. The term of the Agreement is not to exceed three (3) years.

By Order of the Federal Maritime Commission.

Dated: October 30, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96-28354 Filed 11-4-96; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL RESERVE SYSTEM**

**Agency information collection activities: Proposed collection; Comment request**

**AGENCY:** Board of Governors of the Federal Reserve System (Board)

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the "Agencies") may

not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. Proposed revisions to the following currently approved collections of information have received approval from the Federal Financial Institutions Examination Council (FFIEC), of which the Agencies are members, and are hereby published for comment by the Board on behalf of the Agencies. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the proposed revisions should be modified prior to the Board's submission of them to OMB for review and approval. Comments are invited on: (a) whether the proposed revisions to the following collections of information are necessary for the proper performance of the Agencies' functions, including whether the information has practical utility; (b) the accuracy of the Agencies' estimate of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Comments must be submitted on or before January 6, 1997.

**ADDRESSES:** Interested parties are invited to submit written comments to the agency listed below. All comments should refer to the OMB control number.

Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Agencies: Alexander Hunt, Office of

Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed revisions to the collections of information may be requested from the agency clearance officers whose name appears below.

Mary M. McLaughlin, Board Clearance Officer, (202) 452-3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For Telecommunications Device for the Deaf (TDD) users only, Dorothea Thompson, (202) 452-3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:**

Proposal to revise the following currently approved collection of information:

*Title:* Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks

*Form Number:* FFIEC 002

*OMB Number:* 7100-0032.

*Frequency of Response:* Quarterly.

*Affected Public:* U.S. branches and agencies of foreign banks.

*Number of Respondents:* 513

*Total Annual Responses:* 2,052

*Estimated Time per Response:* 22.75 burden hours.

*Total Annual Burden:* 46,683 burden hours.

*General Description of Report:* This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b). Except for select sensitive items, this information collection is not given confidential treatment (5 U.S.C. 552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

*Abstract:* On a quarterly basis, all U.S. branches and agencies of foreign banks (U.S. branches) are required to file detailed schedules of assets and liabilities in the form of a condition report and a variety of supporting schedules. This balance sheet information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy purposes. The report is collected and processed by the Federal Reserve on behalf of all three Agencies.

*Current Actions:* The proposed revisions to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) that are the subject of this notice have been approved by the FFIEC for

implementation as of the March 31, 1997, report date. Nonetheless, as is customary for FFIEC 002 reporting changes, U.S. branches are advised that, for the March 31, 1997, report date, reasonable estimates may be provided for any new or revised item for which the requested information is not readily available.

The proposed revisions are summarized as follows:

*Deletions and Reductions in Detail.*

Based on their review of the current content of the FFIEC 002, the Agencies propose that the following deletions and reductions in detail be made to the FFIEC 002 report, generally because the existing items or current levels of detail are no longer considered sufficiently useful to warrant their continued collection.

(1) Schedule E - Deposit Liabilities and Credit Balances: Memoranda item 1.a, "Time certificates of deposit of \$100,000 or more" would be combined with existing Memoranda item 1.b, "Other time deposits of \$100,000 or more."

(2) Schedule C, Part I - Loans and Leases: Memoranda item 1, "Holdings of commercial paper included in Schedule C, part I" would be deleted. In addition, the instructions would be revised to indicate that commercial paper should no longer be reported as a loan in Schedule C, but should be reported as a security in Schedule RAL-Assets and Liabilities, normally in item 1.c.(2), "Other bonds, notes, debentures, and corporate stock (including state and local securities): All other."

*Modification of Instructions That Differ From GAAP and Related New Items.* In November 1995, the FFIEC announced that it had approved the adoption of generally accepted accounting principles (GAAP) as the reporting basis for the commercial bank Reports of Condition and Income (Call Report), effective with the March 1997 report date. In addition, GAAP should be used as the reporting basis for the FFIEC 002, although differences between the U.S. branch's accounting basis and GAAP that are not significant would be permitted. If the differences are significant, then GAAP should be used in all such cases. Adopting GAAP as the reporting basis in the basic schedules of the FFIEC 002 report will eliminate existing differences between U.S. branch regulatory reporting standards and GAAP, thereby producing greater consistency in the information collected in regulatory reports and general purpose financial statements and reducing reporting burden. Although FFIEC 002 instructions that depart from GAAP will be eliminated,

the instructions will continue to contain and the FFIEC and the Agencies will continue when necessary to issue specific reporting guidance that falls within the range of acceptable practice under GAAP. Each agency also will retain existing authority to require an institution to report a transaction on the FFIEC 002 in accordance with that agency's interpretation of GAAP.

In connection with this move to GAAP, the section of the FFIEC 002 report's General Instructions on "Applicability of Generally Accepted Accounting Principles to Regulatory Reporting Requirements" would be revised. In addition, changes would be made to the following FFIEC 002 instructions to bring them into conformity with GAAP:

(1) The treatment of assets sold with recourse in the Glossary entry for "Sales of Assets" and the section of the Glossary entry for "Participations in Pools of Residential Mortgages" on "Privately-issued certificates of participation in pools of residential mortgages"

(2) The treatment of futures, forward, and option contracts in the Glossary entry for "Futures, Forward, and Standby Contracts"

(3) The general prohibition on the netting of assets and liabilities in the FFIEC 002 report set forth in the General Instructions

(4) The initial valuation of foreclosed assets in the instructions to Schedule M, Part IV, item 2, "Other real estate owned"

(5) The treatment of repurchase agreements to maturity and long-term repurchase agreements in the Glossary entry for "Repurchase/Resale Agreements"

(6) The treatment of reciprocal balances in the instructions to Schedule A, item 3, "Balances due from depository institutions in the U.S." and in the Glossary entry for "Reciprocal Balances"

(7) The treatment of securities transactions with settlement periods exceeding regular way settlement time limits that have been reported as forward contracts according to the instructions to Schedule L, item 9, "Gross amounts (for example, notional amounts) of off-balance sheet derivatives"

U.S. branches that have engaged in any of the preceding types of transactions or activities prior to January 1, 1997, and have reported them in the FFIEC 002 report in accordance with the existing instructions that differ from GAAP would be permitted to report them in accordance with GAAP beginning in 1997. The effect of this

retroactive application of GAAP on the amount of a U.S. branch's net due from or net due to related depository institutions as of January 1, 1997, (that is, the amount of the "catch-up" adjustment) would be included in Schedule RAL, item 2.a or item 5.a, and Schedule M, Part I, item 2.a.

For some of the preceding types of transactions or activities which will be affected by the modification of FFIEC 002 instructions that differ from GAAP, the potential change in the reporting of these transactions and activities is of concern to the Agencies. In some cases, the instructional changes may affect the reported amount of a U.S. branch's deposits and, if the U.S. branch is insured, its assessment base for deposit insurance purposes. In order to identify the extent of U.S. branch involvement in these areas or the effect on reported deposits, the Agencies propose to add certain new items to the FFIEC 002 report and to modify a number of existing reporting items, as follows:

(1) A new memorandum item would be added to Schedule RAL— Assets and Liabilities (or another schedule if more appropriate) for the "Amount of assets netted against liabilities to nonrelated parties (excluding deposits in insured branches) on the balance sheet (Schedule RAL) in accordance with generally accepted accounting principles." This item would include securities purchased under agreements to resell that have been netted against securities sold under agreements to repurchase under Financial Accounting Standards Board (FASB) Interpretation No. 41, back-to-back loans involving deposits (excluding deposits in insured branches), receivables and payables arising from unsettled trades, in-substance defeasance transactions grandfathered under FASB Statement No. 125, and any other assets netted against liabilities to nonrelated parties (excluding deposits in insured branches) under FASB Interpretation No. 39. However, the item would exclude netted on-balance sheet amounts associated with off-balance sheet derivative contracts and assets netted in accounting for pensions.

(2) For insured U.S. branches, new items would be added to Schedule O— Other Data for Deposit Insurance Assessments for the "Amount of assets netted against deposit liabilities of the branch (excluding IBF) on the balance sheet (Schedule RAL) in accordance with generally accepted accounting principles." Amounts would be reported separately for assets netted against demand deposits and assets netted against time and savings deposits. These items would exclude

data on net reciprocal demand balances and related adjustments reported in Schedule O, Memoranda item 4.

As indicated above, the existing FFIEC 002 instructions on reciprocal balances will be revised to conform with GAAP. At present, the instructions require U.S. branches to report reciprocal demand balances with commercial banks in the U.S. (including U.S. branches and agencies of other foreign banks) on a net basis on the balance sheet (Schedule RAL) and in the deposit schedule (Schedule E). All other reciprocal deposit relationships are to be reported gross. Because this netting instruction differs from the reciprocal deposit netting provisions in Section 7(a)(4) of the Federal Deposit Insurance Act, the insurance assessments schedule contains three netting-related items used to adjust reported deposits so they conform with the statute (Schedule O, Memoranda items 4.a through 4.c). The FFIEC 002 instructions on reciprocal balances, once they are revised in accordance with GAAP, will still differ from Section 7(a)(4), but in a different manner than at present. Thus, items 4.a through 4.c of Schedule O must be modified to ensure that insured U.S. branch assessment bases continue to be properly measured. As revised, items 4.a through 4.c would be as follows:

(a) "Amount by which demand deposits would be reduced if the reporting branch's reciprocal demand balances with the domestic offices of U.S. banks and savings associations (and insured branches in Puerto Rico and U.S. territories and possessions) that were reported on a gross basis in Schedule E had been reported on a net basis"

(b) "Amount by which demand deposits would be increased if the reporting branch's reciprocal demand balances with foreign banks and foreign offices of U.S. banks (other than insured branches in Puerto Rico and U.S. territories and possessions) that were reported on a net basis in Schedule E had been reported on a gross basis"

(c) "Amount by which demand deposits would be reduced if cash items in process of collection were included in the calculation of the reporting branch's net reciprocal demand balances with the domestic offices of U.S. banks and savings associations (and insured branches in Puerto Rico and U.S. territories and possessions) in Schedule E"

*Credit Derivatives.* Credit derivatives are off-balance sheet arrangements that allow one party, the beneficiary, to transfer the credit risk of a "reference asset" to another party, the guarantor. The market for this new type of

instrument is expected to grow significantly over the next few years. In order to identify the extent of U.S. branches' involvement with these instruments, both on an individual institution basis and for the industry, the Agencies propose to add two new items to Schedule L, Off-Balance Sheet Items and to Schedule M, Part V, Off-Balance Sheet Items with Related Depository Institutions. The first item would be for the notional amount of all credit derivatives on which the reporting U.S. branch is the guarantor. The second would be for the notional amount of all credit derivatives on which the reporting U.S. branch is the beneficiary. U.S. branches would include the notional amounts of credit default swaps, total rate of return swaps, and other credit derivative instruments.

**Other New Items.** Two new memoranda items would be added to Schedule RAL - Assets and Liabilities, to itemize and describe significant amounts included in items 1.h., "Other assets including other claims on nonrelated parties," and 4.f., "Other liabilities to nonrelated parties." The reporting branch or agency would itemize and describe any amounts included in Schedule RAL item 1.h. that exceed 25 percent of that item whenever the balance reported for item 1.h. exceeds 5 percent of total assets. Similarly, the reporting branch or agency would itemize and describe any amounts included in Schedule RAL item 4.f. that exceed 25 percent of that item whenever the balance reported for item 4.f. exceeds 5 percent of total liabilities.

Another new memoranda item would be added to Schedule RAL to report the number of full-time equivalent employees at each U.S. branch. This information will serve as one measure of the adequacy of controls of U.S. branches in managing their operations, particularly in the area of trading activities.

**Other Instructional Changes.** In addition to those previously mentioned, the following changes, which may affect how some U.S. branches report certain information on the FFIEC 002 report, would be made to the instructions.

(1) Reporting of when-issued securities—The instructions for the reporting of forward contracts in Schedule L, Off-Balance Sheet Items, and Schedule M, Part V, Off-Balance Sheet Items with Related Depository Institutions, will be modified to reflect "gross commitments to purchase" and "gross commitments to sell" when-issued securities as off-balance sheet derivative contracts.

(2) Firm commitments to sell residential mortgage loans—The

instructions to Schedule L, item 9.b, column A, "Interest rate forwards," direct U.S. branches to report forward contracts committing the U.S. branch to purchase or sell financial instruments and whose predominant risk characteristic is interest rate risk. Questions have been raised about whether firm commitments to sell loans secured by 1-to-4 family residential properties should be reported as interest rate forwards. The Agencies believe that commitments that have a specific interest rate, delivery date, and dollar amount should be considered forward contracts and plan to revise this item instruction accordingly.

**Request for Comment.** Comments submitted in response to this Notice will be summarized or included in the Agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Board of Governors of the Federal Reserve System, October 30, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-28357 Filed 11-4-96; 8:45AM]

Billing Code 6210-01-F

#### **Agency Information Collection Activities: Proposed collection; comment request**

**AGENCY:** Board of Governors of the Federal Reserve System (Board)  
**ACTION:** Notice and request for comment.

**BACKGROUND:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the "Agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. The following currently approved collection of information has received approval from the Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, and is hereby published for comment by the Board on behalf of the Agencies. At the end of the comment period, the comments and recommendations received will be

analyzed to determine the extent to which the proposed information collection should be modified prior to the Board's submission of them to OMB for review and approval. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the Agencies' functions, including whether the information has practical utility; (b) the accuracy of the Agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Comments must be submitted on or before January 6, 1997.

**ADDRESSES:** Interested parties are invited to submit written comments to the agency listed below. All comments should refer to the OMB control number.

Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed collection of information may be requested from the agency clearance officers whose name appears below.

Mary M. McLaughlin, Board Clearance Officer, (202) 452-3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For Telecommunications Device for the Deaf (TDD) users only, Dorothea Thompson, (202) 452-3544, Board of Governors of

the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:**

Proposal to extend, without revision, the following currently approved collection of information:  
*Title:* Country Exposure Report for U.S. Branches and Agencies of Foreign Banks  
*Form Number:* FFIEC 019  
*OMB Number:* 7100-0213.  
*Frequency of Response:* Quarterly.  
*Affected Public:* U.S. branches and agencies of foreign banks.  
*Estimated Number of Respondents:* 329  
*Estimated Time per Response:* 10 burden hours.  
*Estimated Total Annual Burden:* 13,160 burden hours.

*General Description of Report:* This information collection is mandatory: 12 U.S.C. 3105 and 3108 for the Board of Governors of the Federal Reserve System; sections 7 and 10 of the Federal Deposit Insurance Act (12 U.S.C. 1817, 1820) for the Federal Deposit Insurance Corporation; and the National Bank Act (12 U.S.C. 161) for the Office of the Comptroller of the Currency). This information collection is given confidential treatment (5 U.S.C. 552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

*Abstract:* All individual U.S. branches and agencies of foreign banks that have more than \$30 million in direct claims on residents of foreign countries must file the FFIEC 019 report quarterly. Currently, all respondents report adjusted exposure amounts to the five largest countries having at least \$20 million in total adjusted exposure. The Agencies collect this data to monitor the extent to which such branches and agencies are pursuing prudent country risk diversification policies and limiting potential liquidity pressures. No revisions are proposed to this information collection.

**REQUEST FOR COMMENT**

Comments submitted in response to this Notice will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Board of Governors of the Federal Reserve System, October 30, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-28358 Filed 11-4-96; 8:45AM]

Billing Code 6210-01-F

**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *ABC Bancorp*, Moultrie, Georgia; to merge with M&F Financial Corporation, Donalsonville, Georgia, and thereby

indirectly acquire Merchants & Farmers Bank, Donalsonville, Georgia.

2. *First Georgia Community Corp.*, Jackson, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First Georgia Community Bank, Jackson, Georgia, in organization.

Board of Governors of the Federal Reserve System, October 30, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-28295 Filed 11-4-96; 8:45 am]

BILLING CODE 6210-01-F

**Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities**

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 19, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Royal Bank of Canada*, Montreal, Canada; to engage *de novo* through an unnamed wholly-owned subsidiary, in the activity of making and servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. *Unidanmark A/S and Unibank A/S*, both of Copenhagen, Denmark (collectively, Notificants); to retain 100 percent of the voting interests in Aros Securities, Inc., New York, New York (Aros), and thereby engage in providing investment and financial advisory services; providing discount and full-service brokerage services; buying and selling all types of debt and equity securities on the order of customers as a "riskless principal"; and acting as agent in the private placement of all types of debt and equity securities. The Board previously has determined that the proposed activities are closely related to banking. 12 CFR 225.25(b)(4), and (15); *Bankers Trust New York Corporation*, 75 Fed. Res. Bull. 829 (1989); *J.P. Morgan & Company Incorporated*, 76 Fed. Res. Bull. 26 (1990); see also Order Revising the Limitations Applicable to Riskless Principal Activities, 82 Fed. Res. Bull. 759 (1996). Notificants would engage in the proposed activities pursuant to the limitations contained in Regulation Y and the Board's prior orders relating to the proposed activities. Aros would engage in the proposed activities throughout the United States and the world.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Cattail Bancshares, Inc.*, Atwater, Minnesota; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted throughout Atwater, Kimball, and St. Augusta Township and other surrounding communities (all in Minnesota).

Board of Governors of the Federal Reserve System, October 30, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-28296 Filed 11-4-96; 8:45 am]

BILLING CODE 6210-01-F

## Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 12:00 noon, Tuesday, November 12, 1996.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 1, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-28588 Filed 11-1-96; 2:53 pm]

BILLING CODE 6210-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, The Department of Health and Human Services announces the following advisory committee meeting.

**Name:** National Committee on vital and Health Statistics (NCVHS).

**Times and Dates:** 9:00 a.m.-5:30 p.m., November 14, 1996; 8:30 a.m.-5:00 p.m., November 15, 1996.

**Place:** Room 503A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

**Status:** Open.

**Purpose:** The meeting will focus on the Committee's new responsibilities as outlined in the administrative simplification provisions of Public Law 104-191, as well as on related matters. Departmental officials will brief the Committee on recent developments, activities of the HHS Data Council, and related data policy activities. The Committee also is scheduled to begin the first of a series of discussions on health data standards: ANSI HSB representatives are scheduled to brief the Committee on an inventory of administrative transaction data standards; representatives from the health

data standards community, the health quality assurance community, the public health and research communities, State and local governments and other interested and affected parties are scheduled to describe their perspectives on health data standards. The Committee also will discuss its priorities and work plans.

**Notice:** In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9:00 a.m. or 12:30 and 1:00 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

**Contact Person for More Information:** Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from James Scanlon, NCVHS, Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440-D, Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 690-7100, or Marjorie S. Greenberg, Acting Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050.

Dated: October 29, 1996.

James Scanlon,

*Director, Division of Data Policy.*

[FR Doc. 96-28297 Filed 11-4-96; 8:45 am]

BILLING CODE 4151-04-M

## Office of the Secretary

### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

*Melissa A. Harrington, University of Texas Southwestern Medical Center:* Based upon an investigation conducted by the University of Texas Southwestern Medical Center, information obtained by ORI during its oversight review, and Dr. Harrington's own admission, ORI found that Melissa A. Harrington, Ph.D., former postdoctoral research fellow, Department of Pharmacology at the University of Texas Southwestern Medical Center, engaged in scientific misconduct by falsifying the methodology and figures in a manuscript that was accepted for publication in the *Journal of Neuroscience* ("G<sub>αq</sub> and G<sub>βγ</sub> open two Bradykinin-gated potassium channels via a membrane-delimited pathway"). The research was supported by a grant

from the National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH).

Specifically, ORI found that Dr. Harrington had (1) falsely described the addition of GDP to a G-protein subunit buffer, when she had omitted it from some of the experiments; (2) falsified three figures (a) by falsely depicting the course of an electrophysiological response as being due to a combination of two substances that had not been combined and (b) by falsely representing a single channel current record as being an example of a distinct channel type that was elicited by the substance  $G_{\alpha q}$ , which had not been added prior to the recording; and (3) intentionally incorporated the falsified data from the experiments in which GDP had been omitted into her statistical descriptions.

The Journal of Neuroscience manuscript was withdrawn and was never published.

Dr. Harrington has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which she has voluntarily agreed, for the three (3) year period beginning October 23, 1996:

(1) To voluntarily exclude herself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which the respondent's participation is proposed or which uses the respondent in any capacity on PHS supported research must concurrently submit a plan for supervision of her duties. The supervisory plan must be designed to ensure the scientific integrity of the respondent's research contribution. The institution must submit a copy of the supervisory plan to ORI.

**FOR FURTHER INFORMATION CONTACT:**

Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443-5330. Chris B. Pascal,

Acting Director, Office of Research Integrity.  
[FR Doc. 96-28374 Filed 11-4-96; 8:45 am]

BILLING CODE 4160-17-P

**Agency for Health Care Policy and Research**

**Notice of Health Care Policy and Research; Special Emphasis Panel Meeting**

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of November 1996:

*Name:* Health Care Policy and Research Special Emphasis Panel.

*Date and Time:* November 13, 1996, 3:15 p.m.

*Place:* Agency for Health Care Policy and Research, 2101 E. Jefferson Street, Suite 400, Rockville, MD 20852.

Open November 13, 1996, 3:15 p.m. to 3:30 p.m.

Closed for remainder of meeting.

*Purpose:* This Panel is charged with conducting the initial review of grant applications proposing conferences on issues relevant to health services research.

*Agenda:* The open session of the meeting on November 13, from 3:15 p.m. to 3:30 p.m., will be devoted to a business meeting covering administrative matters. During the closed session, the panel will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Carmen Johnson, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594-1449 x1613.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: October 30, 1996.

Clifton R. Gaus,

Administrator.

[FR Doc. 96-28408 Filed 11-4-96; 8:45 am]

BILLING CODE 4160-90-M

**Health Care Financing Administration**

[Document Identifier: HCFA-R-143]

**Agency Information Collection Activities: Proposed Collection; Comment Request**

**AGENCY:** Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the

Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. HCFA-R-143 *Type of Information Collection Request:* Extension of currently approved collection; *Title of Information Collection:* Analysis of Malpractice Premium Data; *Form No.:* HCFA-R-143; *Use:* The Omnibus Reconciliation Act of 1989 section 1848(e)(P.L.101-239) requires the Secretary of Health and Human Services (HHS) to develop and update geographic adjustment factors for existing payment localities used in calculating the Medicare fee schedule. HCFA is also required by the law to compute the annual rate of increase in malpractice premiums for use in the Medicare Economic Index in setting the Medicare physician fee schedule update; *Frequency:* Annually; *Affected Public:* State, local or tribal govt., business or other for-profit, not-for-profit institutions; *Number of Respondents:* 50; *Total Annual Responses:* 50; *Total Annual Hours:* 150.

2. HCFA-644 *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Intake and Assessment Survey Package for the Community Nursing Organization Demonstration; *Form No.:* HCFA-644; *Use:* The Omnibus Reconciliation Act of 1987 section 4079 requires the Secretary of Health and Human Services (HHS) to conduct a demonstration project, testing capitated payment for community nursing and ambulatory care services (primarily Medicare-covered home health services, medical devices and durable medical equipment, and certain ambulatory care) provided to Medicare beneficiaries by community nurse organizations sites. This aspect of the demonstration is aimed at replacing the multiple payment mechanisms, such as reasonable cost, predetermined fee

schedules, and usual, customary, and prevailing costs, which exist currently; *Frequency*: Annually; *Affected Public*: Not-for-profit institutions; *Number of Respondents*: 11,300; *Total Annual Responses*: 11,300; *Total Annual Hours*: 6385.

3. HCFA-841-853 *Type of Information Collection Request*: Revision of currently approved collection; *Title of Information Collection*: Durable Medical Equipment Regional Carrier, Certificate of Medical Necessity; *Form Nos.*: HCFA-841-853 (formerly HCFA-R-182); *Use*: A Certificate of Medical Necessity is a standardized format used to communicate information provided by an attending physician and a supplier of medical equipment and supplies. The information is used by carriers to determine the medical necessity of an item or service covered by the Medicare program and being used for the treatment of the Medicare beneficiary's condition. The CMNs being submitted for OMB review are necessary in order for HCFA to determine the medical necessity of the item or service. The information needed to make this determination requires application of medical judgment that can only be provided by a physician or other clinician who is familiar with the condition of the beneficiary; *Frequency*: On Occasion; *Affected Public*: Suppliers and physicians, business or other for-profit, federal government; *Number of Respondents*: 140,000; *Total Annual Responses*: 6.8 million; *Total Annual Hours Requested*: 1.7 million.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at <http://www.hcfa.gov>, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to [Paperwork@hcfa.gov](mailto:Paperwork@hcfa.gov), or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: John Burke, Room C2-26-17, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: October 29, 1996.  
Edwin J. Glatzel,  
*Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.*  
[FR Doc. 96-28344 Filed 11-4-96; 8:45 am]  
BILLING CODE 4120-03-P

#### [HCFA-R-30]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Collection Request*: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection*: ICR in the Hospice Care Regulation for 42 CFR@418.22, 418.24, 418.28, 418.56(b), 418.56(e)(1), 418.56(e)(3), 418.58, 418.70(d), 418.70(e), 418.74, 418.83, 418.96(b) and 418.100(b); *Form No.*: HCFA-R-30; *Use*: The HCFA-R-30 establishes standards for hospices who wish to participate in the Medicare program. The regulations establish standards for eligibility, reimbursement standards and procedures, and delineate conditions that hospices must meet to be approved for participation in Medicare. *Frequency*: On occasion; *Affected Public*: Business or other for-profit and Not-for-profit institutions; *Number of Respondents*: 1,927; *Total Annual Responses*: 1,927; *Total Annual Hours Requested*: 3,977,762.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at <http://www.hcfa.gov>, or to obtain the supporting statement and any related

forms, E-mail your request, including your address and phone number, to [Paperwork@hcfa.gov](mailto:Paperwork@hcfa.gov), or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 29, 1996.  
Edwin J. Glatzel,  
*Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.*  
[FR Doc. 96-28343 Filed 11-4-96; 8:45 am]  
BILLING CODE 4120-03-P

#### Health Resources and Services Administration

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)-443-1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Standard Needs Assessment Protocol for the National AIDS Education and Training Centers (AETC) Program—New—The National AIDS Education and Training Centers (AETC) Program is a network of fifteen regional centers with more than 75 local performance sites that conduct targeted multidisciplinary HIV education and training programs for health care providers. AETCs are required, as a condition of award, to conduct periodic assessments of the learning needs of health care providers in their catchment areas, before designing the training programs they intend to offer. The AETC program has developed a national learning needs assessment tool and protocol, which has been field tested and is now available for use by all fifteen AETCs. The survey instruments will be sent to a random sample of approximately 35,418 health care

providers nationally each year. Results from the surveys will be used to identify, for seven health care disciplines in each State and AETC

catchment area, topical areas in HIV/AIDS treatment in which training is most needed, and how best to provide the training. This will allow the AETCs

to develop training programs responsive to the identified needs. Each discipline will be surveyed every three years. The estimated burden is as follows:

Health care profession		No. of respondents	Responses per respondent	Hours per response	Total hour burden
<b>Year 1</b>					
Physicians .....	Target* .....	12,736	1	.25	3,184
	Others .....	7,164	1	.12	860
Psychosocial/Mental Health Workers .....	Target .....	9,853	1	.25	2,463
	Others .....	5,076	1	.12	609
Year 1 Burden Subtotal .....		34,829			7,116
<b>Year 2</b>					
Nurses .....	Target .....	12,780	1	.25	3,195
	Others .....	7,188	1	.12	827
Physician Assistants .....	Target .....	4,866	1	.25	1,216
	Others .....	2,737	1	.12	328
Advanced Practice Nurses .....	Target .....	4,866	1	.25	1,216
	Others .....	2,737	1	.12	328
Year 2 Burden Subtotal .....		35,174			7,147
<b>Year 3</b>					
Dentists .....	Target .....	7,531	1	.25	1,883
	Others .....	13,986	1	.12	1,678
Dental Hygienists .....	Target .....	5,157	1	.25	1,289
	Others .....	9,576	1	.12	1,149
Year 3 Burden Subtotal .....		36,250			5,999
Total 3 Year Burden .....		106,253			20,263
Average Yearly Burden .....		35,418			6,754

\* The target group includes those professionals currently serving or likely to serve persons with HIV/AIDS.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 30, 1996.

J. Henry Montes,  
Associate Administrator for Policy  
Coordination.

[FR Doc. 96-28292 Filed 11-4-96; 8:45 am]

BILLING CODE 4160-15-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability

**SUMMARY:** Bon Terre-B, Ltd. (applicant) has applied to the U.S. Fish and

Wildlife Service (Service) for an incidental take permit pursuant to Section 10(A)(1)(b) of the Endangered Species Act (Act). The applicant has been assigned permit number PRT-817371. The requested permit, which is for a period of 30 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the development of 35.8 acres on a 128.2-acre parcel in Lake Pointe IV, located in Austin, Travis County, Texas. The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take applications. A determination of whether jeopardy to the species will likely result from this action or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National

Environmental Policy Act regulations (40 CFR 1506.6).

**DATES:** Written comments on the application should be received by no later than December 5, 1996.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Persons wishing to review the EA/HCP may obtain a copy by contacting Mary Orms, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490-0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 a.m. to 4:30 p.m.) at the above Austin address. Written data or comments concerning the application and EA/HCPs should be submitted to the Field Supervisor, at the Austin Ecological Services Field Office, at the above address. Please refer to

permit number PRT-817371 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:**

Mary Orms at the above Austin Ecological Services Field Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the "taking" of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue or amend permits to take endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are in 50 CFR 17.22.

**Applicant**

Bon Terre-B, Ltd. plans to develop 35.8 acres of the 128.2-acre tract in Lake Pointe IV. The proposed development will be located approximately 11.8 miles southwest of Austin, Travis County, Texas. This action will eliminate approximately 35.8 acres of habitat and three warbler territories. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by establishing 92.4 acres as a conservation area on site.

The conservation area will be added to the already established 145-acre Lake Pointe Preserve and will increase the protected acreage in the South Lake Austin macrosite. Alternatives to this action were rejected because selling or not developing the subject property with federally listed species present was not economically feasible.

Lynn B. Starnes,

*Regional Director, Region 2, Albuquerque, New Mexico*

[FR Doc. 96-27931 Filed 11-4-96; 8:45 am]

**BILLING CODE 4510-55-P**

**Bureau of Land Management**

[OR-050-2822-00-N355: GP7-0009]

**Closure of Public Lands**

**AGENCY:** Prineville District, Deschutes Resource Area, Bureau of Land Management.

**ACTION:** Notice is hereby given that effective immediately, the Skeleton Fire Area as legally described below is closed to all motorized vehicle use, except those defined as open roads. The purpose of this closure is to protect wildlife, vegetation, and watershed resources. Exemptions to this closure will apply to administrative personnel of the Bureau of Land Management. Other exemptions to this closure may be made on a case by case basis by the authorized officer. This closure will remain in effect until May 1, 1998.

**LEGAL DESCRIPTION:** This closure order applies to all public land within the area of Township 18S, Range 13E, Sections 14-36, Township 18S, Range 14E, Section 31, Township 19S, Range 13E, Sections 1, 2, 3, 4, 10, 11, 12, 13, 14, and 25, Township 19S, Range 14E, Sections 6, 7, 18, and 19, WM, Deschutes County, Oregon. Only two roads will remain open during the closure period;

—BLM Road 6516 from Old Highway 20 south to Forest Road 2015.

—Stokey Flat Road, from the intersection of Gosney Road and Arnold Market Road in a southeast direction to the intersection with BLM Road 6516.

**FOR FURTHER INFORMATION CONTACT:** Paul Schmidt, Wildlife Biologist, BLM Prineville District, P.O. Box 550, Prineville, Oregon 97754, telephone 541-416-6784.

**SUPPLEMENTARY INFORMATION:** The authority for this closure is 43 CFR 8341.2 and 43 CFR 8364.1 Violations of this closure order are punishable by a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0-7.

Dated: October 23, 1996.

James Hancock,

*District Manager.*

[FR Doc. 96-28342 Filed 11-4-96; 8:45 am]

**BILLING CODE 4310-33-M**

[WY-920-07-1320-01]

**Notice of Competitive Coal Lease Sale; Antelope Tract, WYW128322**

October 24, 1996.

**AGENCY:** Bureau of Land Management, Interior, Wyoming.

**SUMMARY:** Notice is hereby given that certain coal resources in the Antelope Tract described below in Converse County, Wyoming, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

**DATES:** The lease sale will be held at 2:00 p.m., on Wednesday, December 4, 1996. Sealed bids must be submitted on or before 4:00 p.m., on Tuesday, December 3, 1996.

**ADDRESSES:** The lease sale will be held in the First Floor Conference Room (Room 107) of the Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003. Sealed bids must be submitted to the Cashier, Wyoming State Office, at the address given above.

**FOR FURTHER INFORMATION CONTACT:** Mavis Love, Land Law Examiner, or

Eugene Jonart, Coal Coordinator, at (307) 775-6258 and (307) 775-6257, respectively.

**SUPPLEMENTARY INFORMATION:** This coal lease sale is being held in response to a lease by application filed by Antelope Coal Company of Gillette, Wyoming. The coal resources to be offered consist of all reserves recoverable by surface mining methods in the following-described lands located in Converse County approximately 55 miles north of Douglas, Wyoming and 60 miles south of Gillette, Wyoming:

T. 41 N., R. 70 W., 6th P.M., Wyoming  
Sec. 30: Lots 15 thru 18;

T. 41 N., R. 71 W., 6th P.M. Wyoming  
Sec. 25: Lots 5 thru 8, 13, 14;  
Sec. 26: Lots 9 thru 11, 14, 15.

Containing 617.20 acres

Of the total acreage, approximately 155 acres are unsuitable for mining due to the presence of County Road 37 and the Burlington Northern/Chicago and Northwestern railroad right-of-way along the north side of the eastern half of the tract.

The tract is adjacent to the Antelope Mine and contains surface minable coal reserves in both the Anderson and the Canyon seams currently being mined in the existing mine. The Anderson seam averages about 40 feet thick and outcrops in the eastern half of the tract. The deeper Canyon seam averages about 33.5 feet thick.

The overburden above the Anderson seam averages about 94 feet thick while the overburden above the Canyon seam east of the Anderson outcrop averages about 130 feet thick. The interburden between the two seams averages about 31 feet thick. The total in-place stripping ratio (BCY/ton) of the two seams varies from about .5:1 to about 4:1, but is generally between 1:1 and 2:1 over most of the tract.

The tract contains an estimated 60,364,000 tons of minable coal with 31,929,000 tons coming from the Anderson seam and 28,435,000 tons coming from the Canyon seam. This estimate of minable reserves does not include any tonnage from the 155 acres unsuitable for mining, nor does it include tonnage from localized seams or splits containing less than 5 feet of coal. The coal in both seams is ranked as subbituminous C. The overall average quality of the two seams averages 8779 Btu/lb., 4.22 percent ash, 25.7 percent moisture, 1.21 percent sodium, and .23 percent sulfur. These quality averages place these coal reserves near the top end of coal quality currently being mined in the southern Powder River Basin.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals the fair market value of the tract. The minimum bid for the tract is \$100 per acre or fraction thereof. No bid that is less than \$100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after 4:00 p.m., on Tuesday, December 3, 1996, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale.

If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

The lease issued as a result of this offering will provide for payment of an annual rental of \$3.00 per acre, or fraction thereof, and of a royalty payment to the United States of 12.5 percent of the value of coal produced by strip or auger mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are available from the Wyoming State Office at the addresses above. Case file documents, WYW128322, are available for inspection at the Wyoming State Office. Michael J. Madrid,

*Acting Deputy State Director, Minerals and Lands.*

[FR Doc. 96-28348 Filed 11-4-96; 8:45 am]

BILLING CODE 1320-01-M

[MT-020-1020-00]

### Notice of Meeting

**AGENCY:** Bureau of Land Management (BLM), Montana, Miles City District, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Miles City District Resource Advisory Council will have a meeting Wednesday, December 4, 1996 at 10:00 a.m. in the 6th floor Conference Room at the Montana State Office of BLM, 222 North 32nd Street, Billings, Montana.

The meeting is called primarily to discuss a proposal for off-highway vehicle plan amendments, the 1996 fire season, and other miscellaneous topics. The meeting is expected to last until 3:30 p.m.

The meeting is open to the public and the public comment period is set for 2:30 p.m. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and copying during regular business hours.

#### FOR FURTHER INFORMATION CONTACT:

Marilyn Krause, Public Affairs Specialist, Miles City District, 111 Garryowen Road, Miles City, Montana 59301, telephone (406) 232-4331.

**SUPPLEMENTARY INFORMATION:** The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management. The 15 member Council includes individuals who have expertise, education, training or practical experience in the planning and management of public lands and their resources and who have a knowledge of the geographical jurisdiction of the Council.

Dated: October 22, 1996.

Glenn A. Carpenter,

*District Manager.*

[FR Doc. 96-28350 Filed 11-4-96; 8:45 am]

BILLING CODE 4310-DN-P

### Minerals Management Service

#### Agency Information Collection

#### Activities: Submission for Office of Management and Budget Review; Comment Request

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice to reinstate a previously approved collection.

**SUMMARY:** The Department of the Interior has submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (Act) a request for emergency processing to reinstate the collection of information discussed below. The Act requires that OMB provide interested Federal agencies and the public an opportunity to comment on information collection requests. The Act also provides that an agency may not conduct or sponsor, and

a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Submit written comments by December 5, 1996.

**ADDRESSES:** Submit comments and suggestions directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010-0053), Washington, D.C. 20503.

Send a copy of your comments to the Chief, Engineering and Standards Branch, Mail Stop 4700, Minerals Management Service, 381 Elden Street, Herndon, Virginia 20170-4817.

#### FOR FURTHER INFORMATION CONTACT:

Alexis London, Engineering and Standards Branch, Minerals Management Service, telephone (703) 787-1600. You may obtain copies of the proposed collection of information and related forms by contacting MMS's Information Collection Clearance Officer at (703) 787-1242.

#### SUPPLEMENTARY INFORMATION:

*Title:* 30 CFR Part 250, Subpart D, Oil and Gas Drilling Operations.

*OMB Number:* 1010-0053.

*Abstract:* Respondents provide information and maintain records on the conditions of a drilling site in the Outer Continental Shelf (OCS). MMS needs the information to determine if lessees are properly providing for the safety of operations and protection of human life or health and the environment. MMS uses the information to avoid and eliminate hazards inherent in drilling operations. Responses to this collection of information are mandatory.

*Description of Respondents:* Federal OCS oil and gas lessees.

*Estimated Number of Respondents:* 130.

*Frequency:* The reporting and record-keeping requirements and number of respondents vary for each section and are on occasion.

*Estimated Annual Burden on Respondents:* Reporting burden of 2,740 hours; recordkeeping burden of 38,243 hours; for a total of 40,983 burden hours.

*Type of Request:* Reinstatement without change of a previously approved collection.

*Form Number:* N/A.

*Comments:* The OMB is required to make a decision on a request for emergency processing within the time period requested by the agency submitting the collection of information. We requested approval within 7 days after OMB receives our request. OMB may approve an emergency request for

180 days. During that approval period MMS will request a 3-year extension of this collection of information. On February 6, 1996, MMS provided an opportunity for comments (61 FR 4481). No comments were received in response to that notice. A comment to OMB is best ensured of having its full effect if OMB receives it within 30 days of publication of this notice.

*Bureau Clearance Officer:* Carole deWitt (703) 787-1242.

Dated: September 24, 1996.

Henry G. Bartholomew,

*Deputy Associate Director for Operations and Safety Management.*

[FR Doc. 96-28381 Filed 11-4-96; 8:45 am]

BILLING CODE 4310-MR-M

#### **Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request**

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for reapproval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting Dennis Jones at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below, and to the OMB Paperwork Reduction Project (1010-0063), Washington, DC 20503, telephone 202-395-7340.

**DATES:** Written comments should be received on or before December 5, 1996.

**Title:** Production Accounting and Auditing System Reports on Solid Minerals.

**OMB Approval Number:** 1010-0063.

**Abstract:** Production Accounting and Auditing System information is needed to provide comprehensive production and disposition data on solid minerals produced from Federal and Indian leases. The data collected from lease and mine operators will be used to monitor production and check reported disposition against royalties. The monitoring function will enable MMS to verify that proper royalties are being received for solid minerals produced from Federal and Indian land.

**Bureau Form Numbers:** MMS-4050, MMS-4051-S, MMS-4059A and B, MMS-4060A and B.

**Frequency:** Intermittently, monthly, quarterly.

**Description of Respondents:** Companies producing and processing

solid minerals from Federal and Indian leases.

**Estimated Completion Time:** .5 to 1.5 hours.

**Annual Responses:** 3,853.

**Annual Burden Hours:** 2,920.

**Bureau Clearance Officer:** Arthur Quintana, (703) 787-1101.

Dated: September 6, 1996.

James W. Shaw,

*Associate Director for Royalty Management.*

[FR Doc. 96-28382 Filed 11-4-96; 8:45 am]

BILLING CODE 4310-MR-P

#### **National Park Service**

##### **Blackstone River Valley National Heritage Corridor; Notice of Meeting**

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, November 21, 1996.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 PM at the Chester Building, Blackstone Valley Tourism Council, 171 Main Street, Pawtucket, RI. for the following reasons:

1. Presentation of Pawtucket Redevelopment Authority regarding the Visitor Center.

2. The Next Ten Years.

3. Commission Business.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Susan K. Moore, Executive Director, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762-0250.

Further information concerning this meeting may be obtained from Susan K. Moore, Executive Director of the Commission at the aforementioned address.

Shirley L. Scott,

*Acting Executive Director BRVNHCC.*

[FR Doc. 96-28391 Filed 11-4-96; 8:45 am]

BILLING CODE 4310-70-P

#### **National Register of Historic Places; Notification of Pending Nominations**

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 26, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127. Written comments should be submitted by November 20, 1996.

Carol D. Shull,

*Keeper of the National Register.*

#### **ARIZONA**

##### **Apache County**

Coronado School (New Deal in New Mexico MPS), 601 4th St., SW, Albuquerque, 96001383.

##### **Coconino County**

Tuba Trading Post, Jct. of Main and Moenave Sts., NW corner, Tuba City, 96001362.

##### **Navajo County**

Bacavi (Paaqavi) Historic District, Address Restricted, Bacavi vicinity, 96001363.

#### **CONNECTICUT**

##### **Hartford County**

West Hill Historic District, West Hill Dr., bounded by Farmington Ave., West Hartford, 96001366.

##### **Litchfield County**

Burlington—Harmony Hill Historic District, Harmony Hill, Locust Grove, and Burlington Rds., Harwinton, 96001364.

Litchfield—South Roads Historic District, Roughly, Litchfield Rd. from Bridge Park to Harwinton Heights Rds. and South Rd. from Litchfield Rd. to South Cemetery, Harwinton, 96001365.

#### **FLORIDA**

##### **Alachua County**

Old Gainesville Depot, Address Restricted, Gainesville vicinity, 96001369.

##### **Indian River County**

Fellsmere Public School (Fellsmere MPS), 22 S. Orange St., Fellsmere, 96001368.

##### **Manatee County**

Kreissle Forge, 7947 Tamiami Trail, Sarasota vicinity, 96001370.

##### **Putnam County**

Crescent City Historic District, Roughly bounded by Lake Stella, Vernon Ave., Lake Crescent, and Orange Ave., Crescent City, 96001367.

#### **IOWA**

##### **Black Hawk County**

Gingrich, Clement B., House, 300 Walnut St., Laporte City, 96001371.

Des Moines County  
The Capitol Theater, 211 N. Third St.,  
Burlington, 96001373.

Hardin County  
First Congregational Church, 1209 12th St.,  
Eldora, 96001372

MARYLAND  
Washington County  
Marsh Mills, 17426 and 17432 Spielman Rd.,  
Fairplay, 96001375.

MASSACHUSETTS  
Bristol County  
Rogers Memorial Church, 102 Green St.,  
Fairhaven, 96001374.

MICHIGAN  
Chippewa County  
Birch Lodge Hospital and Summer Resort  
Sanitarium, Co. Rt. H-40, .6 mi. W of MI  
123, Trout Lake, 96001376.

Emmet County  
Four Mile Clearing Rural Historic District,  
Roughly, jct. of Mitchell and Fletcher Rds.  
and jct. of Country Club and Fletcher Rds.,  
Bear Lake Township, Petoskey vicinity,  
96001379.

Saginaw County  
Flint and Pere Marquette Railroad East  
Saginaw Depot, (Center Saginaw MRA) 501  
Potter St., Saginaw, 96001378.

Washtenaw County  
Bell Road Bridge, Bell Rd. at the Huron River,  
Dexter Township, Pinckney vicinity,  
96001380.

Palmer, George W., House, 138 E. Middle St.,  
Chelsea, 96001377.

MISSOURI  
Callaway County  
Carver, George Washington, School, 909  
Westminister, Fulton, 96001381.

NEBRASKA  
Douglas County  
Howard Street Apartment District, Roughly  
bounded by Harney St., 22nd St., Landon  
Crt., and 24th St., Omaha, 96001382.

NEW MEXICO  
Bernalillo County  
Roosevelt Park, (New Deal in New Mexico  
MPS), Jct. of Coal and Spruce Aves., SE,  
Albuquerque, 96001384.

West San Jose School, (New Deal in New  
Mexico MPS), 1701 4th St., SW,  
Albuquerque, 96001385.

NEW YORK  
Monroe County  
Adsit Cobblestone Farmhouse, (Cobblestone  
Architecture of New York State MPS), 3871  
Clover St., Mendon, 96001393.

Cole Cobblestone Farmhouse, (Cobblestone  
Architecture of New York State MPS), 933  
Mile Square Rd., Mendon, 96001394.

Gates—Livermore Cobblestone, (Cobblestone  
Architecture of New York State MPS), 4389  
Clover St., Mendon, 96001390.

Mendon Cobblestone Academy, (Cobblestone  
Architecture of New York State MPS), 16  
Mendon—Ionia Rd., Mendon, 96001395.

Sheldon Cobblestone House, (Cobblestone  
Architecture of New York State MPS), 21  
Mendon—Ionia Rd., S of jct. with NY 251,  
Mendon, 96001392.

Stewart Cobblestone Farmhouse,  
(Cobblestone Architecture of New York  
State MPS), Douglas Rd., S of jct. with  
Canfield Rd., Mendon, 96001391.

Whitcomb Cobblestone Farmhouse,  
(Cobblestone Architecture of New York  
State MPS), 437 Pond Rd., Mendon,  
96001396.

Ontario County  
Port Gibson United Methodist Church, 2951  
Greig St., Port Gibson, 96001387.

St. Peter's Episcopal Church, 44 Main St.,  
Bloomfield, 96001389.

Seneca County  
First Presbyterian Church, E. Main St., E of  
jct. with NY 96, Waterloo, 96001386.

Wayne County  
Zion Episcopal Church, 100—120 Main St.,  
Palmyra, 96001388.

NORTH CAROLINA  
Avery County  
Wiseman, Ray, House, 7540 Linville Falls  
Hwy., Altamont, 96001397.

Wake County  
Fuquay Springs Historic District, (Wake  
County MPS), Roughly, S. Main St. and  
Fuquay Ave. from Spring St. to Sunset Dr.  
and Spring St. from Spring Ave. to Angier  
Rd., Fuquay—Varina, 96001398.

TENNESSEE  
Knox County  
First Presbyterian Church Cemetery,  
(Knoxville and Knox County MPS),  
Adjacent to 620 State St., Knoxville,  
96001400.

Kingston Pike Historic District, (Knoxville  
and Knox County MPS), Roughly 2728—  
3151, 3201, 3219, 3401, 3425, and 3643  
Kingston Pike, Knoxville, 96001404.

Old Gray Cemetery, 543 N. Broadway,  
Knoxville, 96001402.

South Market Historic District, (Knoxville  
and Knox County MPS), 707, 709 and 713  
Market St. and 404 and 406 Church Ave.,  
Knoxville, 96001403.

Tennessee School for the Deaf Historic  
District, (Knoxville and Knox County  
MPS), 2725 Island Home Blvd., Knoxville,  
96001401.

Montgomery County  
Glenwood Historic District, 101—109  
Glenwood Dr., 110—182 E. Glenwood Dr.,  
111—179 W. Glenwood Dr., Clarksville,  
96001405.

Sevier County  
Pittman Community Center Home Economics  
Building, 2839 Webb Creek Rd., Pittman  
Center, 96001406.

[FR Doc. 96-28410 Filed 11-4-96; 8:45 am]  
BILLING CODE 4310-70-P

## Bureau of Reclamation

### Bay-Delta Advisory Council Meeting

**AGENCY:** Bureau of Reclamation,  
Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: follow-up from items from the previous meeting; presentation and discussion of an example of component integration in developing an alternative; an overview of the Ecosystem Restoration target setting process and workshop held on November 19; discussion of the Phase II timeline; and updates on several of the program components. The BDAC meeting is open to the public. Interested persons may make oral statements to the BDAC or may file written statements for consideration.

**DATES:** The Bay-Delta Advisory Council meeting will be held from 9:00 am to 4:00 pm on Thursday, November 21, 1996.

**ADDRESSES:** The Bay-Delta Advisory Council meeting will meet at the Burbank Airport Hilton and Convention Center, 2500 Hollywood Way, Burbank, CA 91505 at (818) 843-6000.

**FOR FURTHER INFORMATION CONTACT:** Sharon Gross, CALFED Bay-Delta Program, at (916) 657-2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653-6952 or TDD (916) 653-6934 at least one week prior to the meeting.

**SUPPLEMENTARY INFORMATION:** The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and

balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: October 29, 1996.

Roger Patterson,

*Regional Director, Mid-Pacific Region.*

[FR Doc. 96-28398 Filed 11-4-96; 8:45 am]

BILLING CODE 4310-94-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993 Auto Body Consortium, Inc.; Intelligent Resistance Welding Joint Venture**

Notice is hereby given that, on September 23, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Auto Body Consortium, Inc. filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Helm Instrument Company, Maumee, OH, has withdrawn from the joint venture.

No other changes have been made in either the membership or the planned activity of the joint venture.

On September 18, 1995, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on April 3, 1996 (61 FR 14817). The last notification was filed on December 26, 1995. A notice was published in the Federal Register on April 25, 1996 (61 FR 18409).

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96-28337 Filed 11-4-96; 8:45 am]

BILLING CODE 4410-01-M

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—CAD Framework Initiative, Inc.**

Notice is hereby given that, on June 3, 1996 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, these changes are as follows: (1) Ambit Design Systems, Inc., Sunnyvale, CA has joined as a new Corporate Member; (2) Digital Equipment Corporation; Nippon Telegraph and Telephone (NTT); and Zuken-Redac, Inc., have not renewed their Corporate Memberships in CFI; (3) Delft University; and GMD, have not renewed their Associate Memberships in CFI; (4) Corporate Member AT&T Bell Laboratories is now listed as Lucent Technologies.

On December 30, 1988, CFI filed its original notification pursuant to Section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the Federal Register pursuant to Section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction notice was published on April 20, 1989 (54 FR 16013).

The last notification was filed with the Department on January 29, 1996. A notice was published in the Federal

Register pursuant to Section 6(b) of the Act on April 10, 1996 (61 FR 15969).

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96-28335 Filed 11-4-96; 8:45 am]

BILLING CODE 4410-01-M

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993; Financial Services Technology Consortium, Inc.**

Notice is hereby given that, on October 7, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Financial Services Technology Consortium, Inc. ("Consortium"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the changes are as follows: Canadian Imperial Bank of Commerce, Toronto, Ontario, CANADA; GC Tech, New York, NY; and BancTec, Dallas, TX, were admitted as Associate Members. First Union Nations Bank of North Carolina, Charlotte, NC, was admitted as a Principal Member.

Membership remains open and the Consortium intends to file additional written notifications disclosing all changes in membership. The consortium also plans to file additional notifications disclosing changes in planned activities of the Consortium.

On October 21, 1993, the Financial Services Technology Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on December 14, 1993 (58 FR 65399). The last notification was filed on June 20, 1996. A notice was published in the Federal Register on August 7, 1996 (61 FR 41183).

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96-28339 Filed 11-4-96; 8:45 am]

BILLING CODE 4410-01-M

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum**

Notice is hereby given that, on October 3, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Frame

Relay Forum ("Forum") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Cadia Networks, Inc., Andover, MA; Lucent Technologies, Holmdel, NJ; Sourcecom Corporation, Westlake Village, CA; VEBACOM Netz GmbH, Kohn, GERMANY; and Crosskeys Systems Corporation, Kanata, Ontario, CANADA, have become members of the joint venture. StrataCom, San Jose, CA, has ceased to be a member of the venture. EMI Communications has changed its name to Intermedia Communications. Unitel Communications has changed its name to AT&T Canada.

No other changes have been made in either the membership or planned activity of the joint venture. Membership in this venture remains open. The Forum intends to file additional written notifications disclosing all membership changes.

On April 10, 1992, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on July 2, 1992 (57 FR 29537). The last notification was filed on July 1, 1996. A notice was published in the Federal Register on July 23, 1996 (61 FR 38216).

Constance K. Robinson,  
*Director of Operations, Antitrust Division.*  
[FR Doc. 96-28338 Filed 11-4-96; 8:45 am]  
BILLING CODE 4410-01-M

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Utilization Research Forum**

Notice is hereby given that, on September 23, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Participants in the Supplemental Study, titled "LNG Floating Production, Storage and Offloading Facility Study", performed as an extension to the Gas Utilization Research Forum ("GURF") Project No. 2, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Supplemental Study and (2) the purpose and objectives of the Supplemental Study. The notifications

were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the parties to the Supplemental Study and GURF Project No. 2 are: Amoco Production Company, Houston, TX; Chevron Research and Technology Company, Richmond, CA; Gaz de France, Research Division, Nantes Cedex 01, FRANCE; Mobil Technology Company, Dallas, TX; and Texaco Natural Gas International, Houston, TX. The contemplated research and development work for the Supplemental Study is to be carried out under contract with the foregoing Participants by M.W. Kellogg Company, 601 Jefferson Avenue, Houston, TX 77002. The purpose of the Supplemental Study is to investigate the feasibility of establishing a vessel as a floating LNG facility designed to liquefy and export approximately one hundred twenty to one hundred forty (120-140) million standard cubic feet of liquefied natural gas per day. The objectives of the Supplemental Study are to select a low cost plant and determine the preferred liquefaction process and vessel configuration, and then to develop a preliminary production vessel description and definition; a conceptual design basis for the production vessel, e.g., capacity, equipment layout, feed gas, etc.; and a preliminary capital and preliminary operating cost estimate for the production vessel.

The Participants intend to file additional written notification disclosing all changes in the membership of the group of Participants involved in this Supplemental Study.

Information on the Supplemental Study may be obtained from Robert J. Motal, Chevron Research and Technology Company, 100 Chevron Way, #50-4314, Richmond, CA 94802-0627.

On May 15, 1995, GURF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on June 20, 1995 (60 FR 32170).

Constance K. Robinson,  
*Director of Operations, Antitrust Division.*  
[FR Doc. 96-28340 Filed 11-4-96; 8:45 am]  
BILLING CODE 4410-01-M

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—Minnesota Mining and Manufacturing Company**

Notice is hereby given that, on September 16, 1996, pursuant to Section 6(a) of the National Cooperative

Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Minnesota Mining and Manufacturing Company ("3M") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Duke Engineering & Services, Inc., Charlotte, NC; The University of Chicago as operator of Argonne National Laboratory, Argonne, IL; Florida International University, Miami, FL; ICF Incorporated, Fairfax, VA; Commonwealth Edison Company, Chicago, IL; and Minnesota Mining and Manufacturing Company, St. Paul, MN.

The purpose of the venture is to develop and demonstrate various technologies that may be useful for remediation of nuclear and non-nuclear hazardous conditions at various facilities, including site specific remediation at Argonne National Laboratory under agreement with the U.S. Department of Energy.

Constance K. Robinson,  
*Director of Operations, Antitrust Division.*  
[FR Doc. 96-28336 Filed 11-4-96; 8:45 am]  
BILLING CODE 4410-01-M

#### **Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Electronics Manufacturing Initiative**

Notice is hereby given that, on June 6, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the National Electronic Manufacturing Initiative ("NEMI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members are as follows: 3M, St. Paul, MN; Asymtek, Carlsbad, CA; BTU, North Billerica, MA; Celestica, Inc., North York, Ontario, CANADA; CTS Corporation, Elkhart, IN; CyberOptics, Minneapolis, MN; Dexter Corporation, Industry, CA; Eveready Battery Company, Westlake, OH; Georgia Institute of Technology, Atlanta, GA;

Hughes Electronics, Malibu, CA; Merix Corporation, Forest Grove, OR; Mitron Corporation, Portland, OR; National Center for Manufacturing Sciences, Ann Arbor, MI; Three-Five Systems, Inc., Tempe, AZ; Universal Instruments Corporation, Binghamton, NY; and View Engineering, Inc., Ann Arbor, MI.

No other changes have been made in either the membership or planned activity of the joint venture. Membership in this venture remains open. NEMI intends to file additional written notifications disclosing all membership changes.

On June 6, 1996, NEMI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on June 28, 1996 (61 FR 33774).

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96-28341 Filed 11-4-96; 8:45 am]

BILLING CODE 4410-01-M

## Immigration and Naturalization Service

### Agency Information Collection Activities: Extension of Existing Collection; Comment Request

**ACTION:** Notice of information collection under review; petition for alien relative.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on August 9, 1996, at 61 FR 41654, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service.

The purpose of this notice is to allow an additional 30 days for public comments until December 5, 1996. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395-7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally,

comments may be submitted to DOJ via facsimile to (202) 514-1534.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Petition for Alien Relative.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-130. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be used to determine eligibility for benefits sought for relatives of United States citizens and lawful permanent residents.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 918,750 respondents at 30 minutes (.500) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 459,375 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 31, 1996.

Robert B. Briggs,

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 96-28360 Filed 11-4-96; 8:45 am]

BILLING CODE 4410-18-M

## NATIONAL TRANSPORTATION SAFETY BOARD

### Sunshine Act Meeting

**TIME AND DATES:** 9:30 a.m., Wednesday, November 13, 1996.

**PLACE:** The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

6638B—Aviation Accident Report:

American Airlines, Inc., McDonnell Douglas MD-83, N566AA, East Granby, Connecticut, November 12, 1995.

6768—Railroad Special Investigation Report: Steam Locomotive Firebox Explosion on the Gettysburg Railroad Near Gardners, Pennsylvania, June 16, 1995.

**NEWS MEDIA CONTACT:** Telephone: (202) 314-6100.

**FOR MORE INFORMATION CONTACT:** Bea Hardesty, (202) 314-6065.

Dated: November 1, 1996.

Bea Hardesty,

*Federal Register Liaison Officer.*

[FR Doc. 96-28514 Filed 11-1-96; 11:25 am]

BILLING CODE 7533-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-387 and 50-388]

### Pennsylvania Power and Light Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF-14 and NPF-22 issued to the Pennsylvania Power and Light Company (PP&L or the licensee) for operation of the Susquehanna Steam Electric Station (Susquehanna, SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendments, requested by the licensee in a letter dated August 1, 1996, would represent a full conversion from the current Technical Specifications (TSs) to a set of TS based

on NUREG-1433, Revision 1, "Standard Technical Specifications for General Electric Plants, BWR/4," dated April 1995. NUREG-1433 has been developed through working groups composed of both NRC staff members and the BWR/4 owners and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve TSs. As part of this submittal, the licensee has applied the criteria contained in the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (final policy statement)," published in the Federal Register on July 22, 1993 (58 FR 39132), to the current Susquehanna TSs, and, using NUREG-1433 as a basis, developed a proposed set of improved TSs for SSES. The criteria in the final policy statement were subsequently added to 10 CFR 50.36, "Technical Specifications," in a rule change which was published in the Federal Register on July 19, 1996 (60 FR 36953) and became effective on August 18, 1995.

The licensee has categorized the proposed changes to the existing TSs into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes, and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operational requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG-1433 and do not involve technical changes to the existing TSs. The proposed changes include: (a) Providing the appropriate numbers, etc., for NUREG-1433 bracketed information (information which must be supplied on a plant-specific basis, and which may change from plant to plant), (b) identifying plant-specific wording for system names, etc., and (c) changing NUREG-1433 section wording to conform to existing licensee practices.

Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components or variables that do not meet the criteria for inclusion in the TSs. Relocated changes are those current TS requirements which do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated

to appropriate licensee-controlled documents.

The licensee's application of the screening criteria is described in that portion of their August 1, 1996, application titled "Application of Selection Criteria to the Susquehanna Steam Electric Station, Units 1 and 2 Technical Specifications," in Volume 1 of the submittal. The affected structures, systems components or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components or variables will be relocated from the TS to administratively controlled documents such as the Final Safety Analysis Report (FSAR), the BASES, the Technical Requirements Manual (TRM) or plant procedures. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms. In addition, the affected structures, systems, components or variables are addressed in existing surveillance procedures which are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems and components described in the safety analyses. For each requirement in the current SSES TSs that is more restrictive than the corresponding requirement in NUREG-1433 which the licensee proposes to retain in the ITS, they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facilities because of specific design features of the plant.

Less restrictive changes are those where current requirements are relaxed or eliminated, or new flexibility is provided. The more significant "less restrictive" requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TSs may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the

Owners Groups' comments on the improved Standard Technical Specifications. Generic relaxations contained in NUREG-1433 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG-1433 and thus provides a basis for these revised TSs or if relaxation of the requirements in the current TSs is warranted based on the justification provided by the licensee.

In addition to the above changes related to conversion of the current TSs to be similar to the ISTSs in NUREG 1433, the licensee has proposed to change the surveillance frequency from 18 to 24 months for all surveillances that are normally performed at refueling outages. The proposed amendments would extend the required frequency of selected surveillance requirements to 24 months to support the adoption of a 24-month fuel cycle.

In the application of August 1, 1996, PP&L is also requesting an amendment to the Environmental Protection Plan (Appendix B to the operating licenses) for Susquehanna Units 1 and 2. The proposed changes to Appendix B would reformat and renumber the Environmental Protection Plan to be consistent with proposed changes to the TSs (Appendix A to the licenses), to incorporate several administrative changes associated with studies and evaluations that have been completed and to clarify existing requirements. NUREG-1433 does not address Appendix B requirements.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 5, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman

Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the basis of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner

must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I-2: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jay Silberg, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it

publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments dated August 1, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania.

Dated at Rockville, Maryland, this 30th day of October 1996.

For the Nuclear Regulatory Commission.  
John F. Stolz,

*Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 96-28371 Filed 11-4-96; 8:45 am]

BILLING CODE 7590-01-P

## **NRC Requirements Regarding Mandatory Review for Declassification**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice announcing updates to NRC's Mandatory Review for Declassification requirements.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is updating its requirements regarding Mandatory Review for Declassification Pursuant to Section 3.6 of Executive Order (E.O.) 12958, "Classified National Security Information." This action is necessary to inform the public of these updates. This notice also presents instructions for submitting suggestions or questions regarding NRC's information security program.

**FOR FURTHER INFORMATION CONTACT:** A. Lynn Silvius, Chief, Information Security Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-2214.

**SUPPLEMENTARY INFORMATION:** Pursuant to E.O. 12958 published April 20, 1995 (60 FR 12925) and its implementing directive, the NRC is updating its mandatory review for declassification to read as follows:

### **I. Mandatory Review for Declassification Requirements**

A. NRC information classified under E.O. 12958 or predecessor orders shall be subject to a *mandatory* review for declassification by NRC, whenever:

1. The request is made by a United States citizen, permanent resident alien, Federal, State, or local government;

2. The information is not exempted from search and review under the Central Intelligence Agency Information Act;

3. The information has not been reviewed for declassification within the past 2 years; and

4. The request describes the document or material containing the information with sufficient specificity to enable NRC to locate it with a reasonable amount of effort.

B. Any person desiring a mandatory review for declassification of NRC documents containing classified information should address these requests to the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Requests need not be made on any special form, nor does the requested information have to be identified by date or title, but shall, as specified in the E.O., describe the information with sufficient specificity to enable NRC to locate the records containing the requested information with a reasonable amount of effort.

C. The Director, Division of Security, will acknowledge receipt of the request and initiate action to obtain the requested information.

D. Responses to mandatory declassification review requests shall be governed by the amount of time required to process the request.

1. A prompt declassification determination will be made and the requester notified accordingly. If a prompt declassification determination cannot be made, the Director, Division of Security, will advise the requester of the additional time needed to process the request.

2. A final determination shall be made on each request within 180 days from the date of receipt, except in unusual circumstances, in which case the Director, Division of Security, will advise the requester of the additional time required.

3. If the NRC has reviewed the information within the past 2 years, or the information is subject of pending litigation, NRC shall inform the requester of this fact and of the requester's appeal rights.

E. When information cannot be declassified in its entirety, effort will be made to release, consistent with other applicable law, those declassified portions of the requested information that constitute a coherent segment.

F. Upon the denial of an initial request, the Director, Division of Security, will notify the requester of his/her rights to appeal the denial to the Executive Director for Operations (EDO). The appeal shall be in writing,

addressed to the EDO, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and shall specify why the requester believes the information or material does not warrant classification. This appeal must be filed within 60 days of receipt of the denial.

G. The EDO will normally render a decision on the matter within 60 working days following receipt of the appeal. The EDO will notify the requester in writing of the final decision and of the reason(s) for any denial. If additional time is required in rendering a decision, the EDO will notify the requester of the additional time needed and the reason for the extension. If the appeal has been denied, the EDO shall notify the requester in writing of the right to appeal the final NRC decision to the Interagency Security Classification Appeals Panel (ISCAP). The rules and procedures for bringing mandatory declassification appeals before the ISCAP are published in the March 15, 1996; 61 FR 10854, Federal Register. The appeal to the ISCAP must be filed within 60 days of:

1. The date of the final NRC decision;

2. The NRC's failure to notify requester of the status of the classification challenge within 120 days of its filing; or

3. The NRC's failure to notify requester of the status of the appeal within 90 days of the filing of the appeal.

H. If the ISCAP reverses a final NRC decision, NRC may petition the President within 60 days of receipt of an ISCAP decision through the Assistant to the President for National Security Affairs to overrule the decision of the ISCAP.

I. If the NRC receives a mandatory review request for declassification of records in its possession that were originated by another agency, the NRC shall forward the request, a copy of the records requested and its recommendation for action to that agency for processing in accordance with that agency's mandatory review procedures. In those instances where the originating agency does not want their identity disclosed or the existence or nonexistence of the requested information is itself classifiable under the provisions of the E.O., NRC will advise the requester accordingly.

J. Except as provided in Paragraphs 1, 2, and 3 below, a mandatory review for declassification request for classified records in NRC's possession which contain foreign government information shall be processed in accordance with the provisions of this section.

1. If the NRC initially received or classified the foreign government

information, the NRC shall be responsible for making a declassification determination after consultation with concerned governments/agencies.

2. If the NRC did not initially receive or classify the foreign government information, the NRC shall refer the request to the agency that received or classified the foreign government information for appropriate action.

3. Consultation with the foreign originator through appropriate channels may be necessary before final action on the request.

K. If the NRC receives a mandatory review request for declassification of records in its possession that pertain to cryptologic information or information concerning intelligence activities (including special activities) or intelligence sources or methods, it shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

L. Charges for services (e.g., locating and reproducing copies of records) will be made, when deemed applicable, in accordance with NRC regulations and will be consistent with charges for information requested under section 9701 of title 31, United States Code and the NRC's regulations implementing the Freedom of Information Act (10 CFR 9.35—Duplication Fees), or the Privacy Act (10 CFR 9.85—Fees).

## II. Instructions for Submitting Suggestions or Questions Regarding NRC's Information Security Program

Requirements regarding the NRC's Information Security Program are contained in NRC Management Directive 12, "Security." Copies of individual sections of Management Directive 12 are available for review and copying for a fee, at the NRC'S Public Document Room, 2120 L Street, NW, Lower Level, Washington, DC 20555-0001. Suggestions or questions regarding NRC's Information Security Program should be submitted in writing to the U.S. Nuclear Regulatory Commission, Director, Division of Security, Washington, DC 20555-0001.

Dated at Rockville, Maryland, this 28th day of October 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

*Executive Director for Operations.*

[FR Doc. 96-28373 Filed 11-4-96; 8:45 am]

BILLING CODE 7590-01-P

### Advisory Committee on Nuclear Waste; Revised Notice

The agenda of the 88th meeting of the Advisory Committee on Nuclear Waste (ACNW) scheduled for November 12 and 13, 1996, in Room T-2B3, at 11545 Rockville Pike, Rockville, Maryland is being revised to include a closed session to discuss the qualifications of potential new ACNW members. A portion of this session may be closed to public attendance to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6). All other items pertaining to this meeting remain the same as published in the Federal Register on Tuesday, October 29, 1996 (61 FR 55832).

For further information contact: Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415-7366), between 8:00 a.m. and 5:00 p.m. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303-9672; the local direct dial number is 703-321-3339.

Dated: October 30, 1996.

Andrew L. Bates,

*Advisory Committee Management Officer.*

[FR Doc. 96-28370 Filed 11-4-96; 8:45 am]

BILLING CODE 7590-01-P

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATES:** Weeks of November 4, 11, 18, and 25, 1996.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

#### MATTERS TO BE CONSIDERED:

Week of November 4

*Monday, November 4*

2:00 p.m.

Discussion of Interagency Issues (Closed—Ex. 9)

Week of November 11—Tentative

*Wednesday, November 13*

2:00 p.m.

Briefing on Control and Accountability of Licensed Devices (Public Meeting)  
(Contact: John Lubinski, 310-415-7868)

3:30 p.m.

Affirmation Session (Public Meeting) (if needed)

*Thursday, November 14*

2:00 p.m.

Briefing on Spent Fuel Pool Study (Public Meeting)  
(Contact: Ernie Rossi, 301-415-7379)

3:30 p.m.

Discussion of Management Issues  
(Closed—Ex. 2)

Week of November 18—Tentative

*Thursday, November 21*

9:00 a.m.

Affirmation Session (Public Meeting) (if needed)

1:30 p.m.

Briefing by DOE on International Nuclear Safety Program (Public Meeting)

3:00 p.m.

Discussion of Management Issues  
(Closed—Ex. 2)

*Friday, November 22*

1:30 p.m.

Briefing on Integrated Materials Performance Evaluation Program (Public Meeting)  
(Contact: Don Cool, 301-415-7197)

Week of November 25—Tentative

*Wednesday, November 27*

11:30 a.m.

Affirmation Session (Public Meeting) (if needed)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292.

**CONTACT PERSON FOR MORE INFORMATION:** Bill Hill (301) 415-1661.

The NRC Commission Meeting Schedule can be found on the Internet at:  
<http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no

longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [wmh@nrc.gov](mailto:wmh@nrc.gov) or [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: November 1, 1996.

William M. Hill, Jr.,

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 96-28582 Filed 11-1-96; 2:52 pm]

BILLING CODE 7590-01-M

### PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY

#### Senior Executive Service Performance Review Board Membership

**AGENCY:** President's Council on Integrity and Efficiency (PCIE).

**ACTION:** Correction notice.

**SUMMARY:** This document corrects a technical error that appeared in the October 10, 1996 Federal Register notice (61 FR 53242) setting forth the names and titles of the current membership of the PCIE Performance Review Board.

**EFFECTIVE DATE:** November 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Joel J. Schaer, (202) 619-0089.

**SUPPLEMENTARY INFORMATION:** On October 10, 1996, we published a notice in the Federal Register that updated the names and titles of those individuals who are current members of the PCIE Senior Executive Service Performance Review Board. As published, the portion of the notice listing the Department of Agriculture representatives contained an inadvertent technical error. As a result, the Department of Agriculture section is being corrected to read as follows:

#### DEPARTMENT OF AGRICULTURE

Member	Title
Joyce Fleischman .....	Deputy Inspector General.
Paula F. Hayes .....	Assistant Inspector General for Policy Development and Resources Management.
James R. Ebbitt .....	Assistant Inspector General for Audit.
Richard D. Long .....	Deputy Assistant Inspector General for Audit.
Robert W. Young, Jr. ....	Deputy Assistant Inspector General for Audit.
Craig L. Beauchamp .....	Assistant Inspector General for Investigations.
Christine Jung .....	Deputy Assistant Inspector General for Investigations.
Jon E. Novak .....	Deputy Assistant Inspector General for Investigations.

Dated: October 21, 1996.

June Gibbs Brown,

*Inspector General, Department of Health and Human Services; and Vice Chair, PCIE.*

[FR Doc. 96-28376 Filed 11-4-96; 8:45 am]

BILLING CODE 4150-04-P

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### Summary of Proposal(s)

- (1) *Collection title:* Statement of Authority to Act for Employee
- (2) *Form(s) submitted:* SI-10
- (3) *OMB Number:* 3220-0034
- (4) *Expiration date of current OMB clearance:* December 31, 1996
- (5) *Type of request:* Extension of a currently approved collection
- (6) *Respondents:* Individuals or households, Business or other for-profit
- (7) *Estimated annual number of respondents:* 400
- (8) *Total annual responses:* 400
- (9) *Total annual reporting hours:* 300
- (10) *Collection description:* Under 20 CFR 335.2, the Railroad Retirement Board (RRB) accepts claims for sickness benefits by other than the sick or injured employees, provided the RRB has the information needed to satisfy itself that the delegation should be made.

#### ADDITIONAL INFORMATION OR COMMENTS:

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,  
*Clearance Officer.*

[FR Doc. 96-28347 Filed 11-4-96; 8:45 am]

BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### Extension

Form 13F—SEC File No. 270-22—OMB Control No. 3235-0006.

Rule 204-3—SEC File No. 270-42—OMB Control No. 3235-0047.

#### Reinstatement

Rule 6a-3—SEC File No. 270-15—OMB Control No. 3235-0021.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is publishing the following summaries of collections for public comment.

Form 13F is used by certain large investment managers to report quarterly with respect to certain securities over which they exercise investment discretion. Each report takes about 24.6 hours to fill out.

It is estimated that approximately 1,804 institutional investment managers are subject to the rule. Each reporting manager files Form 13F quarterly. It is estimated that compliance with the Form 13F imposes a total annual burden per manager of approximately 98.4 hours. The total annual burden for all managers is estimated at 177,513.6 hours.

Rule 203-4 requires an investment adviser to deliver or offer to deliver to clients a written disclosure containing specified information concerning the background and business practices of the adviser. Investors need this information to determine whether to retain or continue to employ the investment adviser.

There are 22,500 investment advisers subject to this rule. It is estimated that the burden resulting from the rule is 551,250 total annual hours.

Rule 6a-3 requires a registered or exempted exchange to file with the Commission (i) notification of any action that renders its application or annual amendment inaccurate, (ii) material it issues or makes available to members, and (iii) a monthly report concerning the activities on the exchange.

There are 8 registered exchanges and 1 exempted exchange that must comply with Rule 6a-3. Each of these 9

respondents file supplemental information under Rule 6a-3 approximately 25 times each year, for a total of 225 annual responses. Each response requires no more than one-half hour. Thus, the total compliance burden for registered and exempted exchanges per year is 112.5 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: October 25, 1996.

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-28311 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-M

### Request for Public Comment

Upon Written Request, Copies Available From Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### Existing Collection In Use Without an OMB Number

Rule 15c2-1—SEC File No. 270-418—OMB Control No. 3235—new.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is publishing the following summary of collection for public comment.

Rule 15c2-1 prohibits the commingling under the same lien of securities of margin customers: (a) with other customers without their written consent; and (b) with the broker or dealer. The rule also prohibits the rehypothecation of customers' margin securities for a sum in excess of the customer's aggregate indebtedness. See

Securities Exchange Act Release No. 2690 (November 15, 1940); Securities Exchange Act Release No. 9428 (December 29, 1971). Pursuant to Rule 15c2-1, respondents must collect information necessary to prevent the rehypothecation of customer account in contravention of the rule, issue and retain copies of notices of hypothecation of customer accounts in accordance with the rule, and collect written consents from customers in accordance with the rule. The information is necessary to ensure compliance with the rule, and to advise customers of the rule's protections.

There are approximately 258 respondents per year (*i.e.*, broker-dealers that carry or clear customer accounts that also have bank loans) that require an aggregate total of 5,805 hours to comply with the rule. Each of these approximately 258 registered broker-dealers makes an estimated 45 annual responses, for an aggregate total of 11,610 responses per year. Each response takes approximately 0.5 hours to complete. Thus, the total compliance burden per year is 5,805 burden hours. The approximate cost per hour is \$20, resulting in a total cost of compliance for the respondents of \$116,100 (5,805 hours @ \$20 per hour).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: October 29, 1996.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-28317 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-M

## Request for Public Comment

Upon Written Request, Copies Available From:

Securities and Exchange Commission,  
Office of Filings and Information  
Services, Washington, D.C. 20549

Extension:

Rule 2a-7—SEC File No. 270-258—  
OMB Control No. 3235-0268  
Rule 17a-7—SEC File No. 270-238—  
OMB Control No. 3235-0214  
Rule 17e-1—SEC File No. 270-224—  
OMB Control No. 3235-0217  
Rule 19a-1—SEC File No. 270-240—  
OMB Control No. 3235-0216  
Rule 31a-1—SEC File No. 270-173—  
OMB Control No. 3235-0178

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is publishing for public comment the following summary of previously approved information collection requirements.

Rule 2a-7 (17 CFR 270.2a-7) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Act") governs money market funds. The rule exempts money market funds from the valuation requirements of the Act, and, subject to certain risk-limiting conditions, permits money market funds to use the "amortized cost method" of asset valuation or the "penny-rounding method" of share pricing.

Rule 2a-7 imposes certain recordkeeping and reporting obligations upon money market funds. The board of directors of a money market fund must establish written procedures designed to stabilize the fund's net asset value. These procedures typically address various aspects of the fund's operations. The fund must maintain and preserve for six years a written copy of these procedures. Additionally, the fund must maintain and preserve for six years a written record of the board's considerations and actions taken in connection with the discharge of its responsibilities, to be included in the board's minutes. The fund must also maintain and preserve for three years written records of certain credit risk analyses, evaluations with respect to securities subject to puts, and determinations with respect to adjustable rate securities and asset backed securities. If the board takes action with respect to defaulted securities, events of insolvency, or deviations in share price, the fund must file with the Commission an exhibit to Form N-SAR describing the nature and circumstances of such action. In the event of certain default or insolvency events, the fund must notify the

Commission of the event and the actions the fund intends to take in response to the situation. As a matter of sound business practices, the board must develop and maintain certain additional procedures and records to ensure compliance with the risk-limiting conditions of Rule 2a-7.

It is estimated that approximately 1,345 money market funds are subject to the rule each year. It is further estimated that compliance with the rule's recordkeeping and reporting requirements imposes an average annual burden per money market fund of approximately 146 hours, so that the total annual burden for all money market funds would be 196,371 hours.

Rule 17a-7 (17 CFR 270.17a-7) under the Act requires registered investment companies to keep various records in connection with certain purchase or sale transactions between investment companies and certain of their affiliates. The annual burden of meeting this requirement is estimated to be about one hour for each of an estimated 500 recordkeepers that enter into subject transactions each year, for a total annual burden of 500 hours.

Rule 17e-1 (17 CFR 270.17e-1) under the Act governs the remuneration a broker affiliated with an investment company may receive in connection with securities transactions by the investment company. The rule requires an investment company's board of directors to establish, and review, as necessary, procedures reasonably designed to provide that the remuneration to an affiliated broker is a fair amount compared to that received by other brokers in connection with transactions in similar securities during a comparable period of time. Each quarter, the board must determine that all transactions effected pursuant to the rule during the preceding quarter complied with the established procedures. Rule 17e-1(c) also requires the investment company to (i) maintain permanently a written copy of the procedures adopted by the board for complying with the requirements of the rule; and (ii) maintain for a period of six years a written record of each transaction subject to the rule setting forth the amount and source of the commission, fee or other remuneration received; the identity of the broker; the terms of the transaction; and the materials used to determine that the transactions were effected in compliance with the procedures adopted by the board.

The Commission estimates that approximately 1,462 funds rely upon Rule 17e-1 each year. The total average annual burden for Rule 17e-1 per

respondent is estimated to be 10 hours, for a total annual burden of 14,620 hours.

Rule 19a-1 (17 CFR 270.19a-1) under the Act sets forth specific requirements for the information which must be included in statements made pursuant to Section 19(a) by registered management investment companies (funds). The rule requires that the statement indicate what portions of the payment are made from net income, net profits and paid-in capital. When any part of the payment is made from net profits, Rule 19a-1 requires that the statement disclose certain other information relating to the appreciation or depreciation of portfolio securities. If an estimated portion is subsequently determined to be significantly inaccurate, a correction must be made on a statement made pursuant to Section 19(a) or in the first report to shareholders following the discovery of the inaccuracy.

It is estimated that approximately 3,000 funds are subject to the rule each year. It is estimated that compliance with the rule's requirements imposes a total annual burden per fund of approximately 30 minutes. The total annual burden for all funds is estimated at 1,500 hours.

Rule 31a-1 (17 CFR 270.31a-1) under the Act requires registered investment companies, and every underwriter, broker, dealer or investment adviser which is a majority-owned subsidiary of a registered investment company, to maintain and keep current accounts, books and other documents which constitute the record forming the basis for financial statements required to be filed pursuant to Section 30 (15 U.S.C. 80a-29) of the Act and of the auditor's certificates relating thereto. The rule lists specific records to be maintained by registered investment companies. The rule also requires certain underwriters, brokers, dealers, depositors and investment advisers to maintain such records as they are required to maintain under federal securities laws.

It is estimated that Rule 31a-1 imposes an average burden of approximately 5,260 hours annually per investment company. It is further estimated that approximately 5,000 investment companies are subject to the rule each year, so that the total annual burden for all investment companies would be 26,300,000 hours. Most of the records required to be maintained by the rule are the type that generally would be maintained as a matter of good business practice and to prepare the investment company's financial statements.

Written comments are requested on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: October 15, 1996.  
Margaret H. McFarland,  
*Deputy Secretary.*  
[FR Doc. 96-28389 Filed 11-4-96; 8:45 am]  
BILLING CODE 8010-01-M

#### **Submission for OMB Review; Comment Request**

Upon Written Request, Copies Available From Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### **Extension**

Form N-17D-1—SEC File No. 270-231—OMB Control No. 3235-0229.  
Rule 18f-1 and Form N-18F-1—SEC File No. 270-187—OMB Control No. 3235-0211.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval of extension on previously approved information collection requirements:

Form N-17D-1 is used by small business investment companies and banks affiliated therewith to report any loan or advance of credit to, or acquisition of securities or property of, a small business concern or any agreement to do any of the foregoing. The annual burden of filling out the form is approximately 5 hours per response.

Rule 18f-1 enables a registered open-end management investment company ("fund") that may redeem its securities

in kind, by making a one-time election, to commit to make cash redemptions pursuant to certain requirements without violating section 18(f) of the Investment Company Act of 1940. Form N-18F-1 provides the Securities and Exchange Commission notification of this election. A response takes approximately one hour. It is estimated that approximately 150 funds file the form annually.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 17, 1996.  
Margaret H. McFarland,  
*Deputy Secretary.*  
[FR Doc. 96-28310 Filed 11-4-96; 8:45 am]  
BILLING CODE 8010-01-M

#### **Submission for OMB Review; Comment Request**

Upon Written Request, Copies Available From Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### **Revision**

Rule 17a-3—SEC File No. 270-26—OMB Control No. 3235-0033.

Rule 17a-4—SEC File No. 270-198—OMB Control No. 3235-0279.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval of revisions on previously approved collections of information:

Rule 17a-3 requires exchange members, broker and dealers to make and keep current certain records relating to a broker's or dealer's financial

condition as well as records reflecting certain employee and principal information. It is estimated that approximately 8,500 respondents will comply with this rule for a total annual burden of 2,542,163 hours.

Rule 17a-4 requires exchange members, brokers and dealers to preserve for prescribed periods of time certain records required to be made by Rule 17a-3. In addition, Rule 17a-4 requires the preservation of records required to be made by other Commission rules and other kinds of records which firms make or receive in the ordinary course of business. These include, but are not limited to, bank statements, cancelled checks, bills receivable and payable, originals of communications, and descriptions of various transactions. It is estimated that approximately 8,500 respondents will comply with this rule for a total annual burden of 2,158,830 hours.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: October 24, 1996.  
Margaret H. McFarland,  
*Deputy Secretary.*  
[FR Doc. 96-28312 Filed 11-4-96; 8:45 am]  
BILLING CODE 8010-01-M

### Requests Under Review by Office of Management and Budget

Upon Written Request, Copies Available From Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### Revision

Form 8-K—SEC File No. 270-50—OMB Control No. 3235-0060.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a

request for approval of revisions to Form 8-K.

Form 8-K is used to report periodically current events by publicly reporting issuers under Section 13 or 15(d) of the Securities Exchange Act of 1934. The information is needed to enable investors to make informed investment decisions. Public companies are the likely respondents. It is estimated that 11,400 forms would be filed annually, resulting in an estimated annual total burden of 59,500 hours.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: October 24, 1996.  
Margaret H. McFarland,  
*Deputy Secretary.*  
[FR Doc. 96-28316 Filed 11-04-96; 8:45 am]  
BILLING CODE 8010-01-M

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From:

Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

#### Revisions:

Form S-1—SEC File No. 270-58—OMB Control No. 3235-0065  
Form S-2—SEC File No. 270-60—OMB Control No. 3235-0072  
Form S-3—SEC File No. 270-61—OMB Control No. 3235-0073  
Form F-1—SEC File No. 270-249—OMB Control No. 3235-0258  
Form F-2—SEC File No. 270-250—OMB Control No. 3235-0257  
Form F-3—SEC File No. 270-251—OMB Control No. 3235-0256  
Form SB-1—SEC File No. 270-374—OMB Control No. 3235-0423  
Form SB-2—SEC File No. 270-366—OMB Control No. 3235-0418  
Form 10-K—SEC File No. 270-48—OMB Control No. 3235-0063  
Form 10-Q—SEC File No. 270-49—

OMB Control No. 3235-0070  
Form 10-KSB—SEC File No. 270-368—OMB Control No. 3235-0420  
Form 10-QSB—SEC File No. 270-369—OMB Control No. 3235-0416  
Form 10—SEC File No. 270-51—OMB Control No. 3235-0064  
Form 10-SB—SEC File No. 270-367—OMB Control No. 3235-0419

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of revisions to the following forms:

Form S-1 is used by issuers that are not eligible to use any of the specialized forms to register securities pursuant to the Securities Act of 1933 ("Securities Act"). It is estimated that 1,084 forms would be filed annually, resulting in an estimated annual total burden of 1,373,428 hours.

Form S-2 is used by issuers that have been reporting companies for three years and that have filed reports under the Securities Exchange Act of 1934 ("Exchange Act") for the last 12 months. It is estimated that 101 forms would be filed annually, resulting in an estimated annual total burden of 47,470 hours.

Form S-3 is used by issuers that have reported under the Exchange Act for 12 months, making primary offerings of non-investment grade securities, and generally have a public float of \$75 million. It is estimated that 2,162 forms would be filed annually, resulting in an estimated annual total burden of 860,476 hours.

Form F-1 is used by foreign private issuers registering securities under the Securities Act that are not eligible to use other forms. It is estimated that 170 forms would be filed annually, resulting in an estimated annual total burden of 317,560 hours.

Form F-2 is used by foreign private issuers that have filed Exchange Act reports for 36 months or, in some instances, that have a public float of at least \$75 million. It is estimated that approximately 5 respondents would file annually, resulting in an estimated annual total burden of 2,795 hours.

Form F-3 is used by foreign private issuers that have been Exchange Act reporting companies for 12 months (and have filed at least one annual report on the appropriate form), and if making primary offerings of non-investment grade securities, generally have a public float of at least \$75 million. It is estimated that 150 forms would be filed annually, resulting in an estimated annual total burden of 24,900 hours.

Form SB-1 is used by small business issuers registering up to \$10 million under the Securities Act in a continuous 12 month period. It is estimated that 16 forms would be filed annually, resulting in an estimated annual total burden of 11,360 hours.

Form SB-2 is used by small business issuers registering securities offerings under the Securities Act. It is estimated that 381 forms would be filed annually, resulting in an estimated annual total burden of 333,756 hours.

Form 10-K is used by all issuers, other than small business issuers, filing annual reports under the Exchange Act. It is estimated that 6,073 forms would be filed annually, resulting in an estimated annual total burden of 10,463,779 hours.

Form 10-Q is filed by all issuers reporting under the Exchange Act filing quarterly reports that are not foreign private issuers or small business issuers. It is estimated that 29,097 respondents would file annually, resulting with a total annual burden of 4,189,968 hours.

Form 10-KSB is used by all small business issuers reporting under the Exchange Act filing annual reports. It is estimated that 887 forms would be filed annually, resulting in an estimated annual total burden of 1,045,760 hours.

Form 10-QSB is used by small business issuers reporting under the Exchange Act filing quarterly reports. It is estimated that 5,280 forms would be filed annually, resulting in an estimated annual total burden of 691,680 hours.

Form 10 is used by issuers registering under the Exchange Act that are not foreign private issuers or small business issuers. It is estimated that 85 forms would be filed annually, resulting in an estimated annual total burden of 8,075 hours.

Form 10-SB is used by small business issuers to register under the Exchange Act filing annual reports. It is estimated that 85 forms would be filed annually, resulting in an estimated annual total burden of 7,650 hours.

The above information is needed to enable investors to make informed investment decisions. Public companies are the likely respondents.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C.

20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: October 21, 1996.  
Margaret H. McFarland,  
*Deputy Secretary*.  
[FR Doc. 96-28388 Filed 11-4-96; 8:45 am]  
BILLING CODE 8010-01-M

### Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 4, 1996.

A closed meeting will be held on Tuesday, November 5, 1996, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 5, 1996, at 10:00 a.m., will be:

Institution of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: October 31, 1996.  
Margaret H. McFarland,  
*Deputy Secretary*.  
[FR Doc. 96-28459 Filed 10-31-96; 4:27 pm]  
BILLING CODE 8010-01-M

[Release No. 34-37884; File No. SR-Amex-96-34]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to Independent Contractors

October 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 27, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.<sup>1</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to adopt Exchange Rule 341B, "Independent Contractors," which provides that the Amex will not object to the assertion of "independent contractor" status by a natural person who is a (i) registered representative, (ii) securities lending representative, or (iii) securities trader if such status will not preclude his or her characterization and treatment as an "employee" for purposes of the Constitution and Rules of the Amex. The Amex also proposes to amend Amex Rule 341, "Approval of

<sup>1</sup> On October 2, 1996, the Amex amended its proposal to submit the proposal pursuant to Section 19(b)(2) under Act. See Letter from Claudia Crowley, Special Counsel, Legal and Regulatory Policy, Amex, to Katherine England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated October 2, 1996 ("Amendment No. 1"). On October 23, 1996, the Amex amended its proposal to eliminate inconsistencies between Amex Rule 341(a) and Amex Rule 341, Commentary .01. See Letter from Claudia Crowley, Special Counsel, Legal and Regulatory Policy, Amex, to Katherine England, Assistant Director, Division of Market Regulation, dated October 23, 1996 ("Amendment No. 2"). Specifically, Amendment No. 2 deletes language indicating that only officers of a member must be approved and provides that registered representatives, securities lending representatives, securities traders, and direct supervisors of those persons must be registered and approved. Amendment No. 2 also includes a technical change which clarifies proposed Amex Rule 341B, "Independent Contractors." On October 24, 1996, the Exchange replaced an incorrect reference to Amex Rule 342 with a reference to Amex Rule 320. See Letter from Claudia Crowley, Special Counsel, Legal and Regulatory Policy, Amex, to Yvonne Fraticelli, Attorney, Division, Commission, dated October 24, 1996 ("Amendment No. 3").

Registered Employees and Officers," to prohibit members from allowing any natural person to perform regularly any of the duties normally performed by (i) a registered representative, (ii) a securities lending representative, (iii) a securities trader, or (iv) a direct supervisor of (i), (ii), or (iii), unless the person has been qualified by, as well as registered with and approved by the Exchange.<sup>2</sup>

The text of the proposal is available at the Office of the Secretary, Amex, and at the Commission.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### (a) Purpose

Amex Rules 340, "Disapproval of Employees," and 341 govern the requirements applicable to registered personnel of member organizations. Specifically, Amex Rule 340 establishes the Exchange's general jurisdiction over all officers and employees of members and member organizations.<sup>3</sup> Exchange Rule 341 specifies the requirements applicable to registered employees and officers of members and member organizations, including examination and qualification requirements.

According to the Amex, in recent years several member organizations have begun to utilize "independent contractors" to perform duties traditionally performed by registered employees. To date, the Exchange has required member organizations who utilize independent contractors to provide a written acknowledgement that the member organization will supervise

and otherwise be responsible for the independent contractor, in the same manner as if he were an employee. In order to clarify the Exchange's requirements and to ensure that independent contractors are appropriately subject to the Exchange's jurisdiction, the Amex proposes to adopt new Exchange Rule 341B.

Proposed Amex Rule 341B provides that the Amex will not object to the assertion of "independent contractor" status by a natural person who is a (i) registered representative, (ii) securities lending representative, or (iii) securities trader if such status will not preclude his or her characterization and treatment as an "employee" for purposes of the Constitution and Rules of the Amex. Under the proposal, such natural person and the member organization must agree that the natural person is subject to the organization's direct, detailed supervision, control and discipline and, if required by Amex Rule 330, "Fidelity Bonds," is covered by its fidelity bond. Once a member organization approves a registered person's "independent contractor" status, the following conditions must be satisfied:

- The member organization provides written assurances to the Exchange that it will supervise and control all activities of the "independent contractor" effected on its behalf, to the same degree and extent that it regulates the activities of all other registered persons and in a manner consistent with Amex Rule 320, "Offices, Approval, Supervision, and Control;"<sup>4</sup>

- The member organization submits to the Exchange a copy of a written agreement between the "independent contractor" and the member organization which provides that the "independent contractor" will engage in securities related activities solely on behalf of the member organization (except as otherwise explicitly may be permitted by the member organization in writing), that such securities related activities will be subject to the direct detailed supervision, control and discipline of the member organization, that such person is not subject to a "statutory disqualification" and that nothing therein will negate any of the foregoing;

- The "independent contractor" agrees in writing to be subject to the Exchange's jurisdiction; and

- The member organization provides the Exchange with assurances that, if required by Amex Rule 330, the "independent contractor" is covered by the organization's fidelity insurance and

is in compliance with applicable state Blue Sky provisions.<sup>5</sup>

Written notice of the cessation of "independent contractor" status must be given to the Amex. Proposed Rule 341B does not apply to persons delegated supervisory functions (e.g., branch office manager, registered representative-in-charge), nor does it permit the incorporation of registered persons. The Amex notes that the New York Stock Exchange ("NYSE") has comparable requirements.<sup>6</sup>

The Amex also proposes to amend Definition six, "Registered Employee," and Exchange Rules 340 and 341 to require that securities traders and securities lending representatives<sup>7</sup> (and their direct supervisors), as well as registered representatives, must be registered, approved by the Exchange and, as applicable, pass a qualification examination acceptable to the Exchange. Amex Rule 341, Commentary .01, as amended, will provide that a natural person who is an "independent contractor" and who performs the duties of a registered representative, securities lending representative, or securities trader is subject to Amex Rule 341.

Finally, the Amex proposes to amend Exchange Rule 340, Commentary .03, to provide that a securities lending representative and his or her direct supervisor must demonstrate their competency by satisfying any applicable qualification examination. According to the Amex, the proposed amendments to Exchange Rules 340 and 341 are consistent with comparable provisions of the NYSE's rules.

#### (b) Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers

<sup>5</sup> The Amex notes that these requirements do not apply to the traditional practice of a firm using an independent floor broker to execute a transaction on the floor of the Amex.

<sup>6</sup> See NYSE Interpretations and Guidance Handbook, 345(a)/02.

<sup>7</sup> Exchange Rule 341, as amended, defines a securities lending representative as a person who has the discretion to commit a member or member organization with which he is associated to any contract or agreement involving securities lending or borrowing activities with any other person. Amex Rule 341, as amended, defines a securities trader as any person engaged in the purchase or sale of securities or other similar instruments for the account of a member or member organization with which he is associated and who does not transact any business with the public. The Amex proposes to amend Definition six, "Registered Employee," to provide that a "registered person" will include a securities lending representative, a securities trader, and a direct supervisor of a securities lending representative or a securities trader, in addition to a branch office manager or a registered representative.

<sup>2</sup> Currently, there is no qualification exam for securities lending representatives.

<sup>3</sup> Amex Rule 340 allows the Amex to disapprove the employment, remuneration or term of employment of any employee of a member or member organization or require the termination of employment of any employee of a member or member organization.

<sup>4</sup> See Amendment No. 3, *supra* note 1.

the objectives of Sections 6(b)(5) and 6(b)(6), in particular, in that it is consistent with the Exchange's regulatory responsibilities and will promote just and equitable principles of trade and protect investors and the public interest.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Amex does not believe that the proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days after the publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order provide such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-Amex-96-34

and should be submitted by November 26, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-28313 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37890; File Nos. SR-Amex-96-37, SR-NYSE-96-30, and SR-Phlx-96-43]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., New York Exchange, Inc., and Philadelphia Stock Exchange, Inc., Relating to an Extension of Certain Market-Wide Circuit Breaker Provisions**

October 29, 1996.

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 3, 1996, the American Stock Exchange, Inc. ("Amex"); on October 15, 1996, the New York Stock Exchange, Inc. ("NYSE"); and on October 22, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx") respectively (each individually referred to herein as an "Exchange" and to two or more collectively referred to as "Exchanges"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule changes relating to the extension of certain market-wide circuit breaker provisions as described in Items I, II, and III below, which Items have been prepared by the Exchanges. The Phlx submitted to the Commission Amendment No. 1 to its proposal on October 28, 1996.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. As discussed below, the Commission is also granting accelerated approval of these proposed rule changes.

<sup>8</sup> 17 CFR 200.30-3(a) (12) (1995).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Phlx requested an extension of its pilot program for a six month period ending on April 30, 1997, rather than the one year period originally requested. See Letter from Murray L. Ross, Secretary, Phlx, to Alton Harvey, Office Chief, Office of Market Watch ("OMW"), Division of Market Regulation ("Market Regulation"), Commission, dated October 28, 1996.

**I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes**

The Exchanges propose to extend for six month (*i.e.*, until April 30, 1997) their existing circuit breaker pilot programs which expire on October 31, 1996.

**II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

In their filing with the Commission, the Exchanges included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item V below. The self-regulatory organizations have prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

**1. Purpose**

In 1988, the Commission approved circuit breaker rule proposals by the Exchanges;<sup>4</sup> and in July, 1996, the Commission approved the first major set of changes to the circuit breaker rules.<sup>5</sup> To summarize, the original circuit breaker rules provided that trading would halt for one hour if the Dow Jones Industrial Average ("DJIA")<sup>6</sup> was to decline 250 points from its previous day's closing level and, thereafter, trading would halt for an additional two hours if the DJIA declined 400 points from its previous day's close. Further, the original rules also provided for the Exchanges to conduct an abbreviated reopening session if the circuit breaker trigger levels were reached during the last hour, but before the last half-hour of trading, or during the last two hours, but before the last hour of trading. The original circuit breaker proposals were approved on a pilot basis, and have

<sup>4</sup> See Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (Amex, Chicago Board Options Exchange, Incorporated ("CBOE"), National Association of Securities Dealers ("NASD") and NYSE); 26218 (October 26, 1988), 53 FR 44137 (Chicago Stock Exchange ("CHX")); 26357 (December 14, 1988), 53 FR 51182 (Boston Stock Exchange ("BSE")); 26368 (December 16, 1988), 53 FR 51942 (Pacific Stock Exchange ("PSE")); 26386 (December 22, 1988), 53 FR 52904 (Phlx); and 26440 (January 17, 1989), (Cincinnati Stock Exchange ("CSE")).

<sup>5</sup> See Securities Exchange Act Release Nos. 37457 (July 19, 1996) 61 FR 39176 (NYSE); 37458 (July 19, 1996), 61 FR 39167 (Amex); and 37459 (July 19, 1996), 61 FR 39172 (BSE, CBOE, CHX, and Phlx).

<sup>6</sup> "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.

been extended annually on that basis since.<sup>7</sup>

In July of 1996, the Commission approved proposals by the Exchanges to amend their circuit breaker rules to modify the time periods for halting trading on the Exchanges when the DJIA has declined by 250 or 400 points.<sup>8</sup> Now, if the DJIA declines by 250 points, trading will halt for one-half hour, and if the DJIA declines further by 400 points, trading will halt for one hour. Also, the Commission approved the Exchanges eliminating references in their rules to using abbreviated reopening procedures either to permit trading to reopen before the scheduled closing, or to establish new last sales prices if trigger values are reached during the last hour, but before the last half-hour of trading, or during the last two hours, but before the last hour of trading.<sup>9</sup>

The Exchanges believe that it is appropriate to extend their respective circuit breaker pilot programs for at least another six months. Although the Exchanges have not had to implement the circuit breaker provisions subsequent to the revisions approved in July, 1996, the Exchanges continue to believe that these revised time periods will be sufficient to provide a meaningful "time out" for participants to evaluate changing market conditions, without unduly constraining trading activity. Accordingly, the Exchanges propose that an initial extension of at least six months be granted to provide them with additional time to continue appraising the effectiveness of the reduced time periods for halting trading.

The Exchanges also represent that they will use the six-month extension to review the adequacy of the current circuit breaker trigger levels, which have remained the same 250/400 point level ever since the pilot programs were first adopted in 1988.<sup>10</sup> The Commission believes that increases in the circuit breaker trigger levels to reflect current market levels should be

developed by the Exchanges as soon as possible.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to protect and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The proposed rule changes are consistent with Section 6(b)(5) of the Act in that they are designed to promote just and equitable principles of trade. The Exchanges believe that extending their circuit breaker rules is consistent with these objectives in that the additional time will provide market participants with a reasonable opportunity to continue assessing the viability of the reduced time periods in the event of a circuit breaker trading halt, and also, to address the adequacy of the current circuit breaker trigger levels.

### B. Self-Regulatory Organizations' Statement on Burden on Competition

The Exchanges do not believe that any burden will be placed on competition as a result of the proposed rule change.

### C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed rule changes.

## III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The Exchanges request that the Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving these extensions to circuit breaker rules prior to the 30th day after publication of the proposed rule change in the Federal Register.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review of the Exchanges' proposed amendments to their circuit breaker rules and for the reasons discussed below, the Commission believes that the proposed rule changes

are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>11</sup> Specifically, the Commission believes the proposals are consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

In 1988, the Commission approved circuit breaker proposals by the SROs as a coordinated mechanism to deal with potential strains that may develop during periods of extreme market volatility.<sup>12</sup> These market-wide circuit breakers were intended to provide market participants with an opportunity to reestablish an equilibrium between buying and selling interest by providing a reasonable opportunity to become aware of and respond to a sudden, potentially destabilizing market decline. In approving these proposals, the Commission also noted that an Interim Report of the Working Group on Financial Markets ("Working Group")<sup>13</sup> had recommended that in periods of rapid market decline that threaten to create panic conditions, trading halts and reopening procedures should be coordinated within the financial market place.<sup>14</sup> Specifically, the Working Group recommended that all U.S. markets for equity and equity-related products—stocks, individual stock options, stock index options, and stock index futures—halt trading during such periods of market volatility.<sup>15</sup> These recommendations, in part, were in response to the events of October 19, 1987, when the DJIA declined over 22.6%. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.<sup>16</sup>

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> See *supra* note 4.

<sup>13</sup> The Working Group on Financial Markets was established by the President in March 1988 in response to the 1987 market break. It consisted of the Under Secretary for Finance of the Department of the Treasury and the Chairmen of the Commission, the Commodity Futures Trading Commission, and the Board of Governors of the Federal Reserve System. Its mandate was to determine the extent to which coordinated regulatory action was necessary to strengthen the nation's financial markets.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See Letter from Todd E. Petzel, Vice President, Financial Research, Chicago Mercantile Exchange

<sup>7</sup> See *supra* note 4. The most recent extensions expire on October 31, 1996 for the Amex, NYSE and Phlx, and on October 31, 1997 for the BSE and CHX. See Securities Exchange Act Release No. 36414 (Oct. 25, 1995) 60 FR 55630. The National Association of Securities Dealers' ("NASD") policy statement expires on December 31, 1997. See Securities Exchange Act Release No. 36563 (December 7, 1995), 60 FR 64084. The Commission approved on a permanent basis the proposals by the CBOE, CSE, and PSE. See Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (CBOE); 26440 (January 10, 1989) 54 FR 1830 (CSE); and 26368 (December 16, 1988), 53 FR 51942 (PSE).

<sup>8</sup> See *supra* note 5.

<sup>9</sup> *Id.*

<sup>10</sup> See *supra* note 4.

The Commission continues to believe that the market-wide trading halt proposals are consistent with Section 6 of the Act<sup>17</sup> in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest. In particular, the Commission believes that the circuit breaker rules reflect an appropriate coordinated effort by the equities and futures markets to halt trading for a brief period in all stocks, stock options, stock index options, stock index futures, and options on stock index futures when the equity market experiences a potentially destabilizing intra-day decline. The Commission also believes that the proposed extension of the circuit breaker rules by the Exchanges will serve to maintain the coordinated approach that now exists for trading halts that are applicable during large, rapid market declines.

While the Commission is approving the NYSE, Amex, and Phlx's proposals today in order to maintain coordinated trading halt procedures across all equity markets, the Commission continues to have significant concerns that the levels for triggering the trading halts need to be increased to reflect the market rise since the breakers' inception. As the Commission noted when the rule changes shortening the circuit breaker halts were adopted in July 1996,<sup>18</sup> the 154% increase in market levels since 1988 necessitates increases in the circuit breaker trigger levels so as to prevent unnecessary application of the breakers. The continued rise in the DJIA since July further reinforces the Commission's concerns in this area. Specifically, when the circuit breaker rules were adopted in 1988, the 250-point and 400-point triggers represented one-day declines of 12% and 19%, respectively, in the DJIA. At current market levels, these triggers represent declines of only 4.1% and 6.6%, respectively.<sup>19</sup> Thus, the maintenance of the trigger levels at 250 and 400 points for eight years while the market has risen substantially has acted to effectuate a significant *de facto*

diminution of the price movement that would cause a market-wide trading halt.

The Commission has serious doubts whether a 4.1% decline warrants a market-wide halt. In this regard, the Commission notes that the 1988 threshold of a 12% decline in the DJIA for the first trading halt has been reached only once since 1945, during the 508-point (22.63%) decline on October 19, 1987; whereas the current 4.1% threshold for the first trading halt has been reached on 13 separate occasions since 1945.

The original intent of circuit breakers was to provide a brief "timeout" only during an extraordinary market decline. The Working Group envisioned that the circuit breaker levels would be reevaluated periodically and adjusted to reflect market levels.<sup>20</sup> The Commission strongly urges the markets to reach a consensus as soon as possible on the size of increases in the current trigger levels required to ensure that cross-market trading halts are imposed only during market declines of historic proportions. Accordingly, the Commission is approving the extensions of circuit breakers for only a six-month period, rather than for a year as in the past. During the next six months, the Commission expects that the markets will promptly reevaluate and adjust circuit breaker trigger levels in order to prevent imposing cross-market trading halts that are not justified by the overall magnitude of a market decline. Moreover, the Commission expects the markets to provide the Commission with their proposals for new trigger levels by February 3, 1997.

Nevertheless, in order to maintain the coordination of circuit breaker procedures across the nation's stock, options, and futures exchanges, the Commission has determined that it is appropriate to approve the Exchanges' proposals to extend their current circuit breaker rules for an additional six months. The Commission believes that this extension will provide more than sufficient time for the Exchanges to agree on the proper trigger levels and procedures under prevailing market levels, as well as to submit proposals to the Commission and for the Commission to act on the markets' proposals. Accordingly, the Commission finds good cause for approving the Exchanges' proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register because there are no changes being made to the current provisions which were approved in July, 1996. Accelerated approval will

enable the circuit breaker pilots to continue on an uninterrupted basis, and ensure continued coordination among the Exchanges. Due to the importance of these circuit breakers for market confidence, soundness, and integrity, it is necessary and appropriate that these procedures continue uninterrupted. Therefore, the Commission believes that granting accelerated approval of the proposed rule changes is appropriate and consistent with Sections 6 and 19(b)(2) of the Act.

#### V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File Nos. SR-Amex-96-37, SR-NYSE-96-30, and SR-Phlx-96-43 and should be submitted by November 26, 1996.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>21</sup> that the proposed rule changes (SR-Amex-96-37, SR-NYSE-96-30, and SR-Phlx-96-43) are hereby approved until April 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>22</sup>

[FR Doc. 96-28385 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-M

("CME"), to Jean A. Webb, Secretary, Commodity Futures Trading Commission ("CFTC"), dated September 1, 1988. See also letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade ("CBT"), dated July 29, 1988; Michael Braude, President, Kansas City Board of Trade ("KCBT"), dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and Surveillance, New York Futures Exchange ("NYFE"), dated September 2, 1988.

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> See *supra* note 5.

<sup>19</sup> These figures are based on the DJIA close of 6094.23 on October 18, 1996.

<sup>20</sup> See *supra* note 13.

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

[Release No. 34-37888; File No. SR-NASD-96-34]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Filing of Injunctive Relief Actions Under the Code of Arbitration Procedure**

October 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 12, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The NASD is proposing to amend Rule 10335 of the Code of Arbitration Procedure ("Code")<sup>2</sup> to clarify that parties are required to expedite any proceeding covered by Rule 10335 where a court has issued temporary injunctive relief and that failure to expedite a proceeding under Rule 10335 will constitute a failure to arbitrate in violation of the NASD's rules. Below is the text of the proposed rule change. The text of the proposed rule is below. Proposed new language is in *italics*; proposed deletions are in *brackets*.

\* \* \* \* \*

**Code of Arbitration Procedure**

\* \* \* \* \*

**Rule 10335 Injunctions**

In industry or clearing disputes required to be submitted to arbitration pursuant to Section 8, parties to the arbitration may seek injunctive relief either within the arbitration process or from a court of competent jurisdiction. Within the arbitration process, parties may seek either an "interim injunction" from a single arbitrator or a permanent injunction from a full arbitration panel. From a court of competent jurisdiction, parties may seek a temporary injunction. A party seeking temporary injunctive relief from a court with respect to an industry or clearing dispute required to be submitted to arbitration pursuant to Rule 10201 shall

simultaneously file *with the Department* a claim for permanent relief *under this Code* with respect to the same dispute [with the Director in the manner specified under the Code]; *provided however, that if an existing agreement between the parties permits the dispute to be arbitrated in another arbitration forum, the dispute may be filed in such other forum only if the other forum will expedite the proceedings on the dispute and the party seeking temporary injunctive relief requests and agrees to expedite the proceedings on the dispute in such other forum, unless the parties to the dispute agree in writing to waive this requirement.* This Rule 10335 contains procedures for obtaining an interim injunction. Paragraph (g) of this Rule relates to the effect of court-imposed injunctions on arbitration proceedings. If any injunction is sought as part of the final award, such request should be made in the remedies portion of the Statement of Claim, pursuant to Rule 10315(a).

**II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

**(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

**(1) Purpose**

The NASD has recently become aware of certain forum shopping practices that have developed since the codification of the injunctive relief provisions in Rule 10335 of the Code. Since Rule 10335 became effective on January 3, 1996, it has been invoked in over seventy (70) proceedings and has resulted in expedited resolution of some of those cases.<sup>2</sup> One of the most important provisions of Rule 10335 is the requirement that a party seeking injunctive relief in court must simultaneously file an arbitration action under the Code. The effect of the

requirement is to bring the dispute under the Code and Rule 10335 relating to expedited proceedings. This provision prevents the party initiating the action from benefitting from any delayed resolution of a dispute that proceeds according to the normal arbitration schedule specified in the Code, where such delayed resolution may effectively preclude the arbitration of the dispute.<sup>3</sup>

The NASD Regulation, Inc.'s ("NASDR") Office of Dispute Resolution has noted, however, that with respect to member-employee disputes, some firms seeking court injunctions are filing their arbitration proceedings with another self-regulatory organization ("SRO") because either: (1) The agreement between member firms and employers in the Form U-4 permits them to arbitrate in the arbitration forum of any SRO with which the employee (and, therefore, the member) is registered; or (2) the member has a separate employment agreement with the employee that permits the arbitration of a dispute in another forum. The arbitration rules of other SROs do not universally provide for expedited arbitration proceedings, although such SROs may expedite a proceeding upon the request of both parties. Therefore, a case filed with another SRO may proceed according to the normal arbitration schedule specified in the rules of such SRO and the party having sought injunctive relief in court, unless it agrees to expedited proceedings, may gain an unfair advantage.

As noted above, the provision in the preamble of Rule 10335 requiring the party seeking an injunction in court to file simultaneously an arbitration proceeding under the Code was intended to prevent the filing of an arbitration under the regular rules as a delaying tactic in the ultimate resolution of a dispute after obtaining court-ordered injunctive relief. The NASD believes, therefore, that the practice of filing an arbitration claim with another SRO and not seeking expedited proceedings defeats the intent

<sup>3</sup> In a "raiding" case the former employer seeking to enforce a non-compete clause in the employment contract will typically seek a preliminary injunction that prevents the former employee from contacting clients that the former employer contends belongs to it until the dispute is finally resolved in arbitration. Because the typical arbitration case lasts approximately 11 months, the effect of the preliminary injunction is to prevent the former employee from contacting clients for at least one year. In such a case, if the dispute is ultimately resolved in favor of the registered representative there is little or no effective remedy for the delay; the opportunity to contact clients immediately after the registered representatives moves to the new firm is lost, along with the likelihood of retaining existing clients.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> Formerly Section 47 of the Code of Arbitration Procedure.

<sup>2</sup> Disputes that arise under this provision are usually member-to-member raiding cases where one member hires a high producing registered representative away from another member.

of Rule 10335—that is, to expedite the arbitration of matters eligible for arbitration between or among members and associated persons.

To give effect to the Rule's intent the NASD notes that under Articles III and IV of the By-Laws, members and associated persons agree to comply with all the provisions of the Association's rules. Rule 10201 of the Code of Arbitration Procedure expressly provides that disputes between or among members and associated persons must be arbitrated at the instance of any member or associated party to the dispute.

Under the Resolution of the NASD Board of Governors concerning the failure to act under the provisions of the Code of Arbitration Procedure, a member's failure to submit a dispute to arbitration may be deemed a violation of the NASD's Rules of Fair Practice. Because the failure to abide by the requirements of Rule 10335 can negate the ability to arbitrate disputes effectively, the NASD believes that the failure of a member or associated person to comply with the requirements of Rule 10335 and seek expedited resolution of a dispute should be considered to be a failure to submit to arbitration under the Code. If the Commission approves the proposed rule change, the NASD will announce to its membership upon the approval that failure to file a claim for permanent relief in compliance with Rule 10335 will constitute a failure to submit to arbitration, subjecting the member or associated person to disciplinary action.

Finally, the NASD is proposing to amend Rule 10335 to clarify that if a party to a dispute required to be submitted to arbitration seeks an injunction in court it must simultaneously file an arbitration claim *with the NASD* under the *NASD's Code*. The NASD is also proposing to amend rule 10335 to provide that if an existing agreement between the parties permits the dispute to be arbitrated in another forum, the dispute may be filed with the other forum only if the other forum will expedite the proceedings and the party seeking the injunction requests and agrees to expedite the proceedings. This provision is intended to recognize the contractual provisions that may permit the parties to arbitrate in another forum; the NASD does not intend to force the parties into the NASD's forum. The provision does intend to place the burden of expediting the proceedings on the party seeking injunctive relief, just as Rule 10335 places the burden on that party.

## (2) Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act<sup>4</sup> in that the proposed rule change will facilitate the arbitration process by clarifying the provisions requiring expedited proceedings in intra-industry disputes and emphasizes that the intent of the rule is to expedite such proceedings.

### (B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. The Commission requests that, in addition to any general comments concerning whether the proposed rule change is consistent with Section 15A(b)(6) of the Act, commenters specifically address the following issues:

1. The United States Supreme Court has stated that arbitration represents an appropriate form of dispute resolution, "so long as the prospective litigant effectively may vindicate [his or her] \* \* \* cause of action in the arbitral forum. \* \* \*"<sup>5</sup> The NASD has suggested that the proposed rule change

is necessary to provide fair arbitration proceedings. The Commission invites comment on whether parties temporarily enjoined by a court are effectively precluded from vindicating their rights in arbitration if they are not afforded expedited proceedings.

2. If the proposed rule change is adopted, it may affect the operation of arbitration fora sponsored by other SROs. For example, the New York Stock Exchange, Inc. currently offers expedited proceedings to parties in its arbitration forum, but it does not require that they accept them. Would coordinated SRO rulemaking be preferable to this NASD action? If so, should the Commission encourage other SROs to submit similar proposed rule changes?

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 26, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).<sup>6</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-28315 Filed 11-04-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37894; File No. SR-NYSE-96-31]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Permanent Approval of Expiration Day Auxiliary Closing Procedures Pilot Program

October 30, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>4</sup> 15 U.S.C. 78o-3.

<sup>5</sup> See *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614, 637 (1991).

<sup>6</sup> 17 CFR 200.30-3(a)(12)

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 23, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to make permanent the pilot program for expiration day auxiliary closing procedures, which was originally filed with the Commission in SR-NYSE-88-37 and amended as described below. The current pilot program is scheduled to expire on October 31, 1996.<sup>3</sup> The rule change set forth in SR-NYSE-88-37 specified auxiliary closing procedures for assisting in handling the order flow associated with the expiration or settlement of stock index futures, stock index options and options on stock index futures in a list of so-called "pilot" stocks.<sup>4</sup> These procedures are applicable on the one day a month that the derivative products expire and on the last trading day of each calendar quarter when quarterly index expiration ("QIX") options expire.

#### I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below and is set forth in Sections A, B and C below.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Special procedures regarding the entry of market-at-the-close ("MOC") orders<sup>5</sup> on expiration Fridays<sup>6</sup> were originally adopted in 1986 for quarterly triple expiration of derivative products.<sup>7</sup> Since November 1988, these procedures have been used for each monthly expiration and applied to the so-called "pilot stocks."<sup>8</sup> In April 1992, the Exchange modified the pilot procedures and included additional special procedures for handling MOC orders in all stocks on expiration Fridays.<sup>9</sup> In March 1993, the Exchange extended the expiration Friday auxiliary closing procedures<sup>10</sup> to days on which quarterly index expiration ("QIX") options expire.<sup>11</sup> In September 1993, the

<sup>5</sup> A MOC order is a market order to be executed in its entirety at the closing price on the Exchange. See NYSE Rule 13.

<sup>6</sup> The term "expiration Friday" refers to the trading day, usually the third Friday of the month, when various stock index futures, stock index options and options on stock index futures expire or settle concurrently.

<sup>7</sup> See Securities Exchange Act Release No. 24926 (September 17, 1987), 52 FR 24926 (approving File No. SR-NYSE-87-32 and nothing that the MOC procedures described therein had been utilized on a quarterly basis since September 1986).

<sup>8</sup> The NYSE auxiliary closing procedures for expiration Fridays were initially approved by the Commission on a pilot basis for a one-year period beginning in November 16, 1988 and extending through October 1989. The pilot has since been extended each year on a one-year basis. See Securities Exchange Act Release Nos. 26293 (November 17, 1988), 53 FR 47599; 26408 (December 29, 1988), 54 FR 343 (approving File No. SR-NYSE-88-37); 27488 (November 16, 1989), 54 FR 48343 (approving File No. SR-NYSE-89-38); 28564 (October 22, 1990), 55 FR 43427 (approving File No. SR-NYSE-90-49); 29871 (October 28, 1991), 56 FR 30004 (approving File No. SR-NYSE-91-31); 31386 (October 30, 1992) 57 FR 52814 (approving File No. SR-NYSE-92-30); 32868 (September 10, 1993), 58 FR 48687 (approving File No. SR-NYSE-93-33); 34916 (October 31, 1994), 59 FR 55507 (approving File No. SR-NYSE-94-32); and 36404 (October 20, 1995), 60 FR 55071 (approving File No. SR-NYSE-95-28).

<sup>9</sup> In April 1992, the Commission approved the Exchange's modified pilot MOC procedures on an accelerated temporary basis for the April 1992 expiration Friday. See Securities Exchange Act Release No. 30570 (April 10, 1992), 57 FR 13399 (notice of filing and order granting partial accelerated approval of File No. SR-NYSE-92-09). Thereafter, the Commission approved those modifications for all expiration Fridays during the pilot period. See Securities Exchange Act Release No. 30680 (May 8, 1992), 57 FR 20720 (order approving File No. SR-NYSE-92-09).

<sup>10</sup> See Securities Exchange Act Release No. 32066 (March 30, 1993), 58 FR 17630 (approving File No. SR-NYSE-93-16).

<sup>11</sup> On quarterly expiration days, the "pilot stocks" include the ten highest weighted stocks of the S&P Midcap 400 Index (in addition to the 50 highest weighted stocks underlying the S&P 500 Index and any component stocks on the Major Market Index not included in that group).

Exchange again modified the pilot procedures to change the cut-off time for entry, cancellation or reduction of MOC orders to 3:40 p.m.<sup>12</sup> In June 1995, the Exchange put into effect modified MOC procedures for expiration days that set a 3:40 p.m. deadline for the entry of all MOC orders in all stocks, except to offset imbalances that are published on the tape.<sup>13</sup>

The current procedures require that MOC orders in any stock be entered for execution by 3:40 p.m. and that no cancellation or reduction of any MOC order in any stock take place after 3:40 p.m. (except in the case of legitimate error). This applies to MOC orders in all stocks regardless of whether such orders relate to a strategy involving stock index futures, stock index options, or options on stock index futures. In addition, Floor brokers representing any MOC orders must indicate their MOC interest to the specialist by 3:40 p.m.

For the pilot stocks and stocks being added to or dropped from an index, the current procedures require a single publication of imbalances of 50,000 shares or more to be made as soon as practicable after 3:40 p.m. Imbalances of 50,000 shares or more may also be published for other stocks with a Floor Official's approval.<sup>14</sup> After the imbalance publication, MOC orders may be entered only to offset a published imbalance. The entry of MOC orders after 3:40 p.m. to liquidate positions related to a strategy involving expiring derivative instruments is not permitted even if such orders might offset published imbalances. No MOC orders may be entered if there is no imbalance publication.

The auxiliary procedures utilized for expiration days have been in effect on a pilot basis for ten years. During that period the procedures have been refined based on the Exchange's experience and input from constituents. The monitoring reports submitted by the Exchange to the Commission show that these procedures have been effective in minimizing excess volatility at the close

<sup>12</sup> See Securities Exchange Act Release No. 32868 (September 13, 1993), 58 FR 48687 (order approving File No. SR-NYSE-93-33).

<sup>13</sup> See Securities Exchange Act Release No. 35589 (April 10, 1995), 60 FR 19313 (April 17, 1995) (order approving File No. SR-NYSE-94-44). Although approved by the SEC in April, the Exchange did not put these procedures into effect until June 1995. Prior to April 1995, only MOC orders related to a strategy involving derivative index products were required to be entered for execution by 3:40 p.m. on expiration days. See Securities Exchange Act Release No. 34916 (October 31, 1994), 59 FR 55507 (November 7, 1994) (order approving File No. SR-NYSE-94-32).

<sup>14</sup> See Securities Exchange Act Release No. 36404 (October 20, 1995), 60 FR 55071 (order approving File No. SR-NYSE-95-28).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 36404 (October 20, 1995), 60 FR 55071 (approving File No. SR-NYSE-95-28).

<sup>4</sup> The pilot stocks consist of the 50 most highly capitalized Standard & Poor's ("S&P") 500 stocks and any component stocks of the Major Market Index ("MMI") not included therein.

on expiration days.<sup>15</sup> The expiration day procedures have become accepted by the securities industry as an appropriate way of dampening volatility on days in which derivative products expire. The Exchange therefore requests that the procedures described above be made permanent.

The Exchange also states that it continues to believe that concerns about excess market volatility that may be associated with the expiration or settlement of derivative index products would be most appropriately addressed if the expiration or settlement value of all such products were based on the NYSE *opening* rather than the closing price on the last business day prior to the expiration or settlement of the product.

## 2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.<sup>16</sup>

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited or received written comments with respect to the proposed rule change.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-96-31 and should be submitted by November 26, 1996.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the NYSE's proposed rule change seeking permanent approval of the expiration day auxiliary closing procedures pilot program is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>17</sup> Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. For the reasons set forth below, the Commission believes that the NYSE's proposal furthers the objectives of Section 6(b)(5) of the Act.

In recent years, the self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the liquidation of stock positions on expiration and non-expiration days. Special procedures regarding the entry of MOC orders on expiration Fridays were first used in 1986 for assisting in handling the order flow associated with the concurrent quarterly expiration of stock index futures, stock index options and options on stock index futures on expiration Fridays. Since November 1988, on a pilot basis, the NYSE has utilized auxiliary closing procedures for MOC orders for each monthly expiration Friday. In March 1993, the Exchange extended the expiration Friday closing procedures to days on which Quarterly Index Expiration options expire. The closing procedures for expiration Fridays and quarterly expiration days (cumulatively, "expiration days") require that all MOC orders be entered, reduced or canceled no later than 3:40

p.m. As soon as practicable after 3:40 p.m., the specialist must disseminate any MOC order imbalance of 50,000 shares or more in pilot stocks. After 3:40 p.m., MOC orders may be entered in the pilot stocks, but only to offset the published imbalance. That is, once an imbalance in a pilot stock has been published, MOC orders in such pilot stock will be accepted only to trade on the opposite side of the market in relation to such published imbalance. These procedures allow NYSE specialists to obtain an indication of the buying and selling interest in MOC orders at expiration and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice thereof and with an opportunity to make appropriate investment decisions in response thereto. In October 1995, the Exchange amended the program to allow for publication of MOC order imbalances of 50,000 shares or more not only in pilot stocks but in stocks added to or dropped from an index, and in any other stock if requested by a specialist and approved by a Floor Official.

The Commission believes that these auxiliary closing procedures have enabled market participants to gain a more accurate picture of the buying and selling interest in MOC orders at expiration. By requiring early submission of MOC orders and disseminating significant imbalances (50,000 shares or more) in all stocks, the NYSE has improved its ability to attract contra-side interest to help alleviate imbalances caused by the liquidation of stock positions. Based on the NYSE's experience, the Commission believes that the MOC order handling requirements work relatively well and may result in more orderly markets at the close on expiration days. As noted above, these auxiliary closing procedures have been used by the Exchange since 1988 without significant difficulty. Therefore, the Commission believes that it is appropriate at this time to approve the Exchange's pilot program on a permanent basis.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register because there are no changes being made to the current provisions, which originally were subject to the full notice and comment procedures. In addition, accelerated approval would enable the program to continue on an uninterrupted basis.

<sup>15</sup> The NYSE has submitted to the SEC several monitoring reports describing its experience with the closing procedures. The most recent report was submitted to the SEC by the NYSE on August 6, 1996.

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> 15 U.S.C. 78f(b).

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change SR-NYSE-96-31 is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-28387 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37886; File No. SR-PSE-96-26]

**Self-Regulatory Organizations; Pacific Stock Exchange Incorporated; Order Approving Proposed Rule Change Relating to Its Minor Rule Plan**

October 29, 1996.

**I. Introduction**

On August 7, 1996, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, a proposed rule change to amend the PSE's Minor Rule Plan.

The proposed rule change was published for comment in the Federal Register on August 21, 1996.<sup>3</sup> No comments were received on the proposal.

**II. Description of Proposal**

As discussed in the Notice, the proposal would amend the PSE's disciplinary rules to provide Exchange staff with the authority to make findings of rule violations and to impose fines pursuant to the Exchange's Minor Rule Plan ("MRP").

**III. Discussion**

The Commission finds that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade. The proposal also is consistent with Section 6(b)(7) in that it is designed to provide a fair procedure for the disciplining of members and persons associated with members.

**IV. Conclusion**

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the

proposed rule change (SR-PSE-96-26) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-28308 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37882; File No. SR-PHILADEP-96-10]

**Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding Use of the Institutional Delivery System for Prime Brokers Transactions**

October 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 28, 1996 the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-PHILADEP-96-10) as described in Items I and II below, which Items have been prepared primarily by Philadep. On September 16, 1996, Philadep filed an amendment to the proposed rule change.<sup>2</sup> The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Philadep proposes to allow its participants to utilize its links with the Depository Trust Company's ("DTC") Institutional Delivery ("ID") system for the confirmation and affirmation of securities transactions that are to be settled by prime brokers.<sup>3</sup>

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Philadep included statements

concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>4</sup>

**(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

Philadep proposes to allow its participants to utilize the ID system for the confirmation and affirmation of trades that are to be settled by prime brokers.<sup>5</sup> Under the proposed rule, Philadep participants may elect to use a prime broker option on the ID system to accommodate requests from their customers to send certain orders to another broker for execution. Although these orders will be executed by another broker, all such orders subsequently will settle at the prime broker.

Prime broker arrangements typically are designed by full service firms to facilitate the clearance and settlement of securities trades for retail and institutional investors that are active market participants. The prime broker arrangement involves the prime broker, the executing broker, and the institutional customer. The prime broker must be a registered broker-dealer that clears and finances customer trades executed by one or more other broker-dealers ("executing brokers") on behalf of the customer. Customers place orders with an executing broker. The executing broker maintains an account in the name of the prime broker for the benefit of the customer to accommodate such customer orders. The customer maintains its funds and securities in an account with the prime broker.

When a customer places a trade order, the executing broker buys or sells securities. On the same day (*i.e.*, trade date), the customer will notify the prime broker of the trade made by the executing broker. The prime broker records the customer's order in its books and records and issues a confirmation to the customer. The executing broker will utilize the ID system to confirm the transaction with the prime broker. The prime broker will affirm the trade through the ID system if the trade information submitted by the customer matches the information received from

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> Letter from J. Keith Kessel, Compliance Officer, Philadep, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (September 13, 1996).

<sup>3</sup> For a complete description of DTC's ID system, refer to Securities Exchange Act Release No. 34779 (October 3, 1994), 59 FR 51465 [File No. SR-DTC-94-13] (notice of filing and order granting accelerated approval on a temporary basis of the ID system).

<sup>4</sup> The Commission has modified the text of the summaries submitted by Philadep.

<sup>5</sup> Prime brokers are ID participating broker-dealers that settle, clear, and finance trades and provide custodial facilities for institutional customers.

<sup>18</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>19</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 37592 (August 21, 1996), 61 FR 45468.

the executing broker. Subsequently, the prime broker settles with the executing broker and the customer according to normal settlement procedures.

Prime broker participants also will have the option to disaffirm trades. Disaffirmation involves the reversal of an affirmed confirmation back to an unaffirmed confirmation status. A disaffirming prime broker will notify both Philadep and the executing broker through Philadep's terminal system, Philanet, that a previously affirmed ID prime broker trade is being disaffirmed. Philadep will verify that each disaffirmation instruction matches an existing ID trade, and on a "best efforts" basis, Philadep will attempt to contact the executing broker by telephone to inform it of the disaffirmation. Philadep then will determine the settlement mode of the disaffirmed trade (e.g., trade-for-trade or continuous net settlement ["CNS"]). If a disaffirmed trade is scheduled to settle trade-for-trade or outside Philadep, Philadep will not take any further action.<sup>6</sup>

If a disaffirmed trade is scheduled to settle in CNS, Philadep will provide information to the appropriate clearing corporation so that the clearing corporation can effect journal entries to reverse the settlement obligations of the prime brokers. This reversal will reestablish the settlement obligations of the executing brokers. On a best efforts basis, the clearing corporation will telephone the executing brokers to advise them of the disaffirmation.

Philadep believes that it will need to make minimal changes to its current system to accommodate this business. Most notably, Philadep will establish two account numbers that will serve to segregate the prime broker activity of its ID participants from other types of activity.

Philadep believes that the proposed change is consistent with Section 17A of Act<sup>7</sup> because it promotes the prompt and accurate clearance and settlement of securities transactions and safeguards securities and funds in Philadep's custody or control.

#### *(B) Self-Regulatory Organization's Statement on Burden on Competition*

Philadep does not believe that the proposed rule change will impose any inappropriate burden on competition.

#### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments relating to the proposed rule change have been received. Philadep will notify the Commission of any written comments received by Philadep.

#### *III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action*

Section 17A(b)(3)(F) of the Act<sup>8</sup> requires the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. Additionally, Section 17A(a)(2)(ii) of the Act<sup>9</sup> directs the Commission to facilitate the linked or coordinated facilities for the clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with Philadep's obligations under the Act because the proposal permits Philadep participants to utilize DTC's ID system to settle prime broker trades which should promote the prompt and accurate clearance and settlement of securities transactions whether such trades settle through CNS (i.e., thereby netting prime brokers' and executing brokers' other positions in the same security) or trade for trade through the existing ID system. Furthermore, the Commission believes that the proposed rule change enhances the ID linkage between DTC and Philadep through which Philadep participants will be able to settle prime broker trades.

Philadep has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will permit Philadep participants to immediately utilize the ID system for prime broker securities transactions. Furthermore, approval of the proposed rule change will allow Philadep to enhance its existing ID linkage with DTC, whose prime brokerage service has already been subject to notice and comment.<sup>10</sup> Although the Commission has received one comment letter supporting the rule proposal, the Commission does not expect to receive additional comment letters on the proposal.<sup>11</sup>

#### *IV. Solicitation of Comments*

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to the file number SR-PHILADEP-96-10 and should be submitted by November 26, 1996.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (File No. SR-PHILADEP-96-10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-28309 Filed 11-4-96; 8:45 am]

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[Release No. 34-37887; File No. SR-Phlx-96-39]

#### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Selective Quoting Facility for Foreign Currency Options**

October 29, 1996.

#### *I. Introduction*

On August 20, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section

unable to offer prime broker services to its participants. Letter from Robert B. Kaplan, Vice President, BHC Securities, Inc., to Larry E. Bergmann, Senior Associate Director, Division, Commission (July 30, 1996).

<sup>12</sup> 15 U.S.C. 78s(b) (2)(1988).

<sup>13</sup> 17 CFR 200.30-3(a)(12) (1996).

<sup>6</sup> For trade-for-trade settlement, prime brokers will not deliver on the sell side or will reclaim the transaction on the buy side. For trades settling outside Philadep, prime brokers will block settlement through their agents or correspondents.

<sup>7</sup> 15 U.S.C. 78q-1 (1988).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).

<sup>9</sup> 15 U.S.C. 78q-1(a)(2)(ii) (1988).

<sup>10</sup> *Supra* note 3.

<sup>11</sup> In that letter, the commenter asserted that it will be competitively disadvantaged if Philadep is

19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the foreign currency option selective quote facility.

Notice of the proposed rule change was published for comment in the Federal Register on September 20, 1996.<sup>3</sup> No comments were received on the proposal. This order approves the proposal.

## II. Description of the Proposal

The foreign currency option ("FCO") Selective Quoting Facility ("SQF") establishes criteria to determine whether the bid/ask quotation for each FCO series is eligible for transmission to the Options Price Reporting Authority ("OPRA") for off-floor dissemination to securities data vendors. Implemented in 1994,<sup>4</sup> the SQF, a feature of the Exchange's Auto-Quote system, was intended to reduce the number of strike prices being continuously updated and disseminated, thus resulting in more timely and accurate FCO quote displays. Specifically, designating as "inactive" those series that are away-from-the-money or not recently traded eliminates quote changes in those series that have the least amount of investor interest, thus reducing the dissemination delays caused by thousands of quote changes in volatile trading periods.

Currently, the SQF categorizes certain FCO strikes as "non-update" or "inactive" strikes, which are disseminated with the OPRA indicator "I" and zeroes (e.g., 000-000), in lieu of a market. In contrast, "update" or "active" strikes include, at minimum: (1) Around-the-money strikes in near-term American style options, and (2) strikes with open interest that have traded with the previous five days. Around-the-money strikes were recently<sup>5</sup> defined as those with an approximate 10, 20, 30, 40 and 50 delta.<sup>6</sup> Active strikes may also be added at the initiative of the Exchange or in response to a request by the Specialist or an FCO Floor Official.

When a series is inactive, those bids and offers are no longer updated in the

Exchange's Auto-Quote system for dissemination.

However, if interest is then voiced in any such series, it can be activated immediately upon establishment of a quote in that series. Inactive strikes with open interest (that have not traded in the previous five days) are quoted once at the close of trading each day for purposes of mark-to-market valuation. Because inactive series are not continuously updated and disseminated, quotation processing times are reduced such that quotes respecting active strikes are updated and disseminated to customers much more quickly.

The Exchange amended the SQF last year<sup>7</sup> to reduce the number of strikes considered active by: (1) Eliminating from the definition of active strikes those series with open interest that have not traded within the previous five trading days, but nevertheless requiring a closing quotation; (2) "de-activating" strikes intra-day that no longer fit the definition of active; and (3) redefining around-the-money active strikes as the five options with an approximate 10, 20, 30, 40 and 50 delta, instead of those four above and four below the spot price. This change was precipitated by volatility in the foreign currency markets causing dramatic fluctuation in foreign currency exchange rates, and, in turn, the addition of many strike prices to accommodate the new trading ranges of the underlying currencies. Therefore, the changes were intended to alleviate this burden and to improve the timeliness and accuracy of FCO quotes.

In building system enhancements to implement this change, testing revealed that the delta-based around-the-money strikes did not most accurately capture around-the-money interest and was not the most efficient or simple method of determining those strikes, as originally contemplated by the FCO floor. The Exchange had previously sought to define active strikes using deltas, in order to correspond to the terminology used by traders and to capture strikes of certain volatilities, which was an improvement upon having a set number. During testing, it was determined that the definition of around-the-money strikes should be revisited, resulting in the proposal at hand.

The purpose of the proposal is to codify certain system enhancements pertaining to the SQF into the governing Rule and Floor Procedure Advice.<sup>8</sup>

<sup>7</sup> See Securities Exchange Act Release No. 36636, *supra* note 5.

<sup>8</sup> Phlx Rule 1012, Commentary .04 and Floor Procedure Advice ("Advice") F-18, FCO Expiration Months and Strikes Prices—Selective Quoting Facility.

Specifically, the current proposal redefines around-the-money active strikes as two in-the-money strikes and six out-of-the-money strikes for both puts and calls. The purpose of this change is to more accurately reflect the most active series for dissemination of the most significant and meaningful quotes. FCO floor representatives determined that the 10-50 delta range did not necessarily incorporate such strikes. Each morning, under the proposal, the SQF would set eight calls and eight puts for each FCO expiration month. Previously, under the delta-based method, at least ten series were activated, and, in certain cases, more than five strikes out-of-the-money were required to capture the 50 delta and less than five captured the 50 delta in-the-money. Thus, based on specialist experience, the "two in the six out-of-the-money" definition garners those strikes that are active daily and have the most trading interest. Furthermore, preliminary testing revealed that 10% fewer strikes in the sample were activated under the new definition. Therefore, the Exchange does not believe that the number of resulting strikes should differ significantly from the delta-based method. The actual number for each FCO depends upon the fluctuations in the underlying currency. Likewise, the Exchange believes that the "two in the six out" method is easier to discern for customers, floor traders, Exchange staff, and vendors alike.

Rule 1012, Commentary .04 establishes the minimum strikes to be activated, thus permitting the Exchange to designate other strikes as active. In this regard, the Exchange proposed to add the language "at minimum" to the Advice, for consistency with Rule 1012. In implementing the ability to activate other strikes, the Exchange has also designated as active all expiration months (except long-term) and around-the-money European style options. Activating expiration months other than the first three months became necessary due to complex system needs related to disseminating implied volatility levels using an outside vendor. Activation of around-the-money strikes is currently needed in all months to continue disseminating these levels under existing system configurations. With respect to end-of-month FCOs, only the first three expiration months are currently activated. Further, European style options are treated the same as American style options by the SQF system, such that the around-the-money definition activates the same strikes. The Exchange notes that these changes were implemented by FCO Committee

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 37688 (September 16, 1996) 61 FR 49515.

<sup>4</sup> Securities Exchange Act Release No. 33067 (October 19, 1993), 58 FR 57658 (October 26, 1993) (File No. SR-Phlx-92-23).

<sup>5</sup> Securities Exchange Act Release No. 36636 (December 26, 1995) 61 FR 209.

<sup>6</sup> "Delta" is a measure of how much an option premium changes in relation to changes in the underlying security. For example, a 50 delta represents that for every one point move in the spot price of an underlying foreign currency, the option moves 1/2.

representatives to facilitate the smooth operation of the SQF, and this proposal codifies this result by adding the permissive language from the Rule into the Advice.

The Exchange believes that the proposed rule change is consistent with Section 6<sup>9</sup> of the Act in general, and in particular, with Section 6(b)(5),<sup>10</sup> in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, as well as to protect investors and the public interest. Specifically, the Exchange believes the proposal promotes just and equitable principles of trade by facilitating speedier dissemination of FCO markets. Although the proposal may, but does not necessarily, result in a greater number of active strikes, the Exchange believes that any additional activation of strikes is necessary to ensure that SQF dissemination includes truly active strikes. Thus, the proposal balances the need to prevent excessive quote disseminations with preserving meaningful dissemination of FCO quotes. The proposal is also designed to facilitate coordination between the Exchange, the Options Clearing Corporation ("OCC"), OPRA and securities information vendors. A quote will always be disseminated when a trade occurs in a previously-inactive series and quotes in inactive series can always be requested from the trading crowd, consistent with the protection of investors and the public interest. In sum, the Phlx believes that the proposed changes to the SQF should facilitate the specialists' ability to focus on active series, which should, in turn, result in tighter, more liquid markets, consistent with Section 6(b)(5).

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5).<sup>11</sup> The Commission believes that the proposed amendments to the SQF will result in timely and accurate FCO quote displays in series of known or probable interest to public customers, rather than those with improbable public investor

interest, thereby helping the Phlx to maintain fair and orderly options markets.

Specifically, the Phlx proposes to redefine around-the-money active strikes as two in-the-money strikes and six out-of-the-money strikes for both puts and calls. According to the Exchange, the purpose of this change is to more accurately reflect the most active series for dissemination of the most significant and meaningful quotes. The Exchange states that FCO floor representatives determined that the 10–50 delta range did not necessarily incorporate such strikes. Each morning, under the proposal, the SQF will set eight calls and eight puts for each FCO expiration month. Previously, under the delta-base method, at least ten series were activated, and, in certain cases, more than five strikes out-of-the-money were required to capture the 50 delta and less than five captured the 50 delta in-the-money.

According to the Exchange, based on specialist experience, the "two in and six out-of-the-money" definition garners those strikes that are active daily and have the most trading interest. The Exchange states that the number of resulting strikes should not differ significantly from the delta-based method. The Exchange states that preliminary testing revealed that 10% fewer strikes in the sample were activated under the new definition, though the actual number for each FCO depends upon the fluctuations in the underlying currency. The Exchange also believes that the "two in and six out" method is easier to discern for customers, floor traders, Exchange staff, and vendors alike. Therefore, the Commission finds that the proposal may benefit investors and help the Phlx maintain fair and orderly markets by allowing for the updating and dissemination of quotations that are most useful to FCO market participants.

Rule 1012, Commentary .04 establishes the minimum strikes to be activated, thus permitting the Exchange to designate other strikes as active. In this regard, for consistency with Rule 1012, the Exchange proposed to add the language "at minimum" to the Advice. The Commission finds this conforming change appropriate.

In addition, the Commission believes that the proposal protects market participants by providing for the dissemination of one bid/ask quote at the end of each day for non-update series with open interest. This quote will provide option holders with an indication of the market for that option and will provide the OCC with a closing

value to mark the market for margin and capital purposes.

The Commission continues to believe, as it has concluded previously,<sup>12</sup> that the SQF, as amended, will not create an advantage to FCO participants on the trading floor with the trading of options series not disseminated to the public. Public customers are protected by the feature of the SQF which requires a quotation to be disseminated after an options series is activated but before a trade can be entered. Accordingly, a participant who is physically on the trading floor will learn of the specialist's market for a given options series when the series is activated and a quote is published, nearly identical in time to a potential customer watching a vendor screen off-floor.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (File No. SR-Phlx-96-39) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-28314 Filed 11-4-96; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

### Office of the Secretary

[Public Notice 2462]

### Extension of the Restriction on the Use of United States Passports for Travel To, In, or Through Libya

On December 11, 1981, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(3), all United States passports were declared invalid for travel to, in, or through Libya unless specifically validated for such travel. This restriction has been renewed yearly because of the unsettled relations between the United States and the Government of Libya and the possibility of hostile acts against Americans in Libya.

The Government of Libya still maintains a decidedly anti-American stance and continues to emphasize its willingness to direct hostile acts against

<sup>12</sup> See Securities Exchange Act Release No. 33067 (October 19, 1993), 58 FR 57458 (order approving SQF, SR-Phlx-92-23); Securities Exchange Act Release No. 36636, *supra* note 5.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

the United States and its nationals. The American Embassy in Tripoli remains closed, thus preventing the United States from providing routine diplomatic protection or consular assistance to Americans who may travel to Libya.

In light of these events and circumstances, I have determined that Libya continues to be an area " \* \* \* where there is imminent danger to the public health or physical safety of United States travelers" within the meaning of 22 U.S.C. 221a and 22 CFR 51.73(a)(3).

Accordingly, all United States passports shall remain invalid for travel to, in, or through Libya unless specifically validated for such travel under the authority of the Secretary of State.

This Public Notice shall be effective upon publication in the Federal Register and shall expire at midnight November 24, 1997, unless extended or sooner revoked by Public Notice.

Dated: October 28, 1996.

Warren M. Christopher,  
*Secretary of State.*

[FR Doc. 96-28390 Filed 11-4-96; 8:45 am]

BILLING CODE 4710-06-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 96-059]

#### Availability of Great Lakes Icebreaking Environmental Impact Statement and Notice of Public Meeting November 14, 1996

**AGENCY:** Coast Guard, DOT.

**ACTION:** Great Lakes Icebreaking Draft (EIS) and public meeting.

**SUMMARY:** Pursuant to Section 122(2) (c) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Coast Guard Guidelines (COMDTINST M16475.1B); the Coast Guard, U.S. Department of Transportation, gives notice of the following actions.

1. This notice is to announce the preparation of a draft EIS for icebreaking in the Great Lakes by the Ninth Coast Guard District and requests comments on this document.

**DATES:** 1. We will conduct a public meeting to receive comments on the EIS on November 14, 1996 at 10:00 am.

**ADDRESSES:** Requests for the EIS, or questions and comments on the EIS should be directed to: Gary Nelson at the U.S. Coast Guard, Civil Engineering

Unit, 1240 East 9th Street, Room 2179, Cleveland, Ohio 44199-2060. The public meeting will be held in the Coast Guard 20th floor conference room in the Anthony J. Celebreeze Federal Building, 1240 East 9th Street, Cleveland, Ohio 44199-2060.

For further information contact Gary Nelson at telephone (216) 522-3934, extension 635.

The EIS can be reviewed at the following locations:

Coast Guard Civil Engineering Unit,  
Anthony J. Celebreeze Federal  
Building, Cleveland, OH  
Coast Guard Group Buffalo, Buffalo, NY  
Coast Guard Group Sault, St. Marie, MI  
Coast Guard Group Grand Haven, MI,  
Coast Guard Group Milwaukee, WI  
Coast Guard Group Detroit, MI  
U.S. Army Corps of Engineers Detroit  
District, Detroit, MI  
U.S. Army Corps of Engineers Saginaw  
Area Office, MI  
U.S. Army Corps of Engineers Grand  
Haven Area Office, MI  
U.S. Army Corps of Engineers Duluth  
Area Office, MN  
U.S. Army Corps of Engineers, Buffalo  
District, Buffalo, NY  
U.S. Army Corps of Engineers,  
Cleveland Area Office, OH  
U.S. Army Corps of Engineers, Chicago  
District, Chicago, IL  
Vaughn Library, Ashland, WI  
Milwaukee Public Library, Document  
Department, Milwaukee, WI  
U W Wendt Library, Madison, WI  
Superior Public Library, Superior, WI  
Duluth Public Library, Duluth, MN  
Two Harbors Library, Two Harbors, MN  
U of Illinois Library, Document Dept. at  
Chicago Circle, Chicago, IL  
Municipal Reference Library, Chicago,  
IL  
Northern Illinois Library, Dekalb, IL  
R P Flower Library, Watertown, NY  
Miner Center Library, Chazy, NY  
Public Library, Michigan, City, IN  
Indiana State Library, Indianapolis, IN  
University Library, Bowling Green, OH  
State Library, Columbus, OH  
City Library, Ashtabula, OH  
Downtown Public Library, Cleveland,  
OH  
Public Library, Petoskey, MI  
Great Lakes Marine Academy Library,  
Traverse City, MI  
Maud Preston Palenske Library, St.  
Joseph, MI  
St. Clair County Library, Port Huron, MI  
U M Natural Science Library, Ann  
Arbor, MI  
U M North Engineering Library, Ann  
Arbor, MI  
Public Library Tech and Science Dept  
Detroit, MI  
Eastern MI U Library, Ypsilanti, MI

Lake Superior State College Library,  
Sault, Ste Marie, MI  
Bayliss Public Library, Sault, Ste Marie,  
MI

#### SUPPLEMENTARY INFORMATION:

##### 1. Proposed Action

The preparation and announcement of an EIS on Great Lakes icebreaking and a public meeting November 14, 1996 in Cleveland, Ohio.

##### 2. Alternatives

No icebreaking was the only alternative compared to the preferred alternative of icebreaking as proposed.

##### 3. Coordination

In accordance with the National Environmental Policy Act, as amended, and Coast Guard policy we encourage all interested or affected parties to participate in the public comment process. The comment process includes public participation to integrate information regarding public needs and concerns into the environmental document.

Agencies and the public are encouraged to provide written comments. These comments should specifically describe environmental issues or topics which the commentator believes the document should address. Written statements should be mailed to the aforementioned Coast Guard address no later than December 9, 1996.

##### Discussion of Announcement

The EIS and public meeting is to address the impact of breaking ice in shipping channels in the Great Lakes. During 1996 and each year thereafter we proposed to break ice in the shipping channels within the Great Lakes.

The U.S. Coast Guard conducts icebreaking under authority of Title 33, Code of Federal Regulations, Part 100 (33 CFR 100). Icebreaking represents a federal agency action subject to review procedures established to implement the National Environmental Policy Act (NEPA). Therefore, this EIS is written in order to comply with our procedures for NEPA implementation.

##### Drafting Information

The drafter of this announcement is Gary Nelson, U.S. Coast Guard, Civil Engineering Unit, Cleveland, OH.

Dated: October 30, 1996.

G.L. Nelson, Environmental Protection  
Specialist,  
*U.S. Coast Guard, Civil Engineering Unit,  
Cleveland, Ohio.*

[FR Doc. 96-28405 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-14-M

**Federal Aviation Administration****Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Laredo International Airport, Laredo, TX**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Laredo International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before December 5, 1996.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW-610D, Fort Worth, Texas 76193-0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jose L. Flores, Manager of Laredo International Airport at the following address: Mr. Jose L. Flores, Airport Manager, Laredo International Airport, 1110 Houston, Laredo, Texas 78040.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW-610D, Fort Worth, Texas 76193-0610, (817) 222-5614.

The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Laredo International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On September 23, 1996, the FAA determined that the application to use

the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 17, 1997.

The following is a brief overview of the application.

*Level of the proposed PFC:* \$3.00.

*Charge effective date:* October 1, 1993.

*Proposed charge expiration date:* June 30, 2010.

*Total estimated PFC revenue:* \$6,303,839.00.

*PFC application number:* 96-02-U-00-LRD.

*Brief description of proposed project(s):*

Projects to use PFC's

PFC Reimbursable Projects; Construct New Passenger Terminal Building and Related Improvements; Reconstruct Runway 17L/35R; Construct a Parallel Taxiway to Runway 17L/35R; Airfield Signage Improvements; and Airfield Electrical Improvements.

*Proposed class of classes of air carriers to be exempted from collecting PFC's:* None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW-610D, 2601 Meacham Boulevard, Fort Worth, Texas 76137-4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Laredo International Airport.

Issued in Fort Worth, Texas, on September 23, 1996.

Naomi L. Saunders,  
Manager, Airports Division.

[FR Doc. 96-27989 Filed 11-4-96; 8:45 am]

BILLING CODE 4910-13-M

**Notice of Intent to Rule on Application, Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Redding Municipal Airport, Redding, CA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the

revenue from a PFC at Redding Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before December 5, 1996.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airport District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Rod Dinger, Airport Operations Manager, City of Redding, at the following address: P.O. Box 496071, Redding, California 96049-6071. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Redding under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Marlys Vandervelde, Airports Program Specialist, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303, Telephone: (415) 876-2806. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Redding Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On October 15, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of Redding was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 23, 1997. The following is a brief overview of the impose and use application number 96-01-C-00-RDD.

*Level of proposed PFC:* \$3.00.

*Charge effective date:* March 1, 1997.

*Estimated charge expiration date:*

May 21, 2005.

*Total estimated PFC revenue:* \$1,195,000.

*Brief description of impose and use projects:* Terminal Building

Remodeling, ARFF Equipment, Land Acquisition—Phase I, Runway 16–34 Pavement Rehabilitation and Runway 34 Approach End Safety Area Culvert.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Redding.

Issued in Hawthorne, California, on October 23, 1996.

Louis N. Million,

*Acting Manager, Airports Division, Western Pacific Region.*

[FR Doc. 96–28413 Filed 11–4–96; 8:45 am]

BILLING CODE 4910–13–M

## Maritime Administration

[Docket No. P–009]

### Title XI Obligation Guarantees Citizenship Requirement

**AGENCY:** Maritime Administration; Department of Transportation.

**ACTION:** Conforming Agency Procedures to Statutory Change; request for comments.

**SUMMARY:** The Maritime Administration (MARAD) is soliciting Public comments to provide assistance in adopting a policy, which may ultimately be incorporated in amendments to its regulations, governing the administration of its obligation guarantees (“Title XI”) program with respect to citizenship requirements for program participants. This action is intended to harmonize the interpretation of citizenship requirements in MARAD’s Title XI regulations with amendments to Title XI, as effected by the enactment on October 8, 1996, of the Maritime Security Act of 1996.

**DATE:** Comments are requested by January 6, 1997.

**ADDRESSES:** To be considered, comments must be mailed, delivered in person or telefaxed (in which case an original must be received) to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. All comments will be made available for

inspection during normal business hours at the above address. Commentors wishing MARAD to acknowledge receipt of comments must enclose a stamped self-addressed envelope or postcard.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Patton, Jr., Deputy Chief Counsel, Maritime Administration, (202) 366–5712.

**SUPPLEMENTARY INFORMATION:** Title XI of the Merchant Marine Act, 1936, as amended (“Act”), 46 App. U.S.C. 1271 *et seq.*, establishes a program which provides for the issuance of U.S. Government guarantees of obligations (debt) issued to finance the construction of vessels. The term vessel is broadly defined to include many and diverse types, as specified. Units the enactment of the National Shipbuilding and Shipyard Conversion Act of 1993 (“Shipbuilding Act”), Subtitle D of Title XIII, Pub. L. 103–160, a corporation or other entities were not eligible for guarantees unless a majority or 75% of its stock was owned by U.S. citizens, within the meaning of section 2 of the Shipping Act 1916, as amended (46 App. U.S.C. 802). The Stock ownership requirement was dependent on the trade served; i.e. foreign or coastwise trade.

To promote U.S. shipbuilding, the Shipbuilding Act expanded the Title XI obligation guarantee program to allow participation by vessel owners, irrespective of citizenship, for financing of vessels built in a U.S. shipyard for export (“eligible export vessels”). At the same time, amendments to Title XI in the Shipbuilding Act removed references to U.S. citizenship requirements in some provisions of the statute while retaining them in other provisions. In issuing a final rule amending its regulations for administering the Title XI obligation guarantee program, MARAD addressed comments with respect to its retention of U.S. citizenship requirements for all vessels, except eligible export vessels (61 F.R. 21306; May 9, 1996). Citing the statutory requirement and its longstanding interpretation, MARAD rejected the view expressed by some commentates on its proposed rule (60 F.R. 20592; April 28, 1995) that there are no U.S. citizenship requirements under the Act, except where such requirements are made applicable to certain specified types of vessels, such as fishing vessels, pollution abatement vessels, etc.

Section 11 of the Maritime Security Act of 1996, PL. 104–239, 110 Stat. 3118, enacted on October 8, 1996, amended Title XI of the Act by striking the words “citizens of the United

States” in 46 App. U.S.C. 1271(b), 1274(a) and 1281(a). The effect was to remove the citizenship requirements for applicants to MARAD for Title XI obligation guarantees, except where specifically provided for by other laws.

MARAD recognizes the clear intent of the Congress expressed in Pub. L. 104–239 to eliminate, prospectively, the eligibility requirement of U.S.

citizenship for vessel owners applying for obligation guarantees, except as otherwise provided by law.

Accordingly, where MARAD’s existing regulations are now in conflict with Title XI, as amended by PL. 104–239 with respect to citizenship requirements, they are no longer valid. Less certain is the retroactive effect, if any, of the new law. MARAD’s goal is to minimize the burden on applicants of establishing U.S. citizenship without compromising MARAD’s responsibility to protect the interests of the United States for the obligations which it guarantees. MARAD is also considering establishing a priority, in the event of a scarcity of funds, for loan guarantee applications by U.S. citizens over non-citizens for operation under U.S.-flag in the foreign commerce.

MARAD is soliciting comments on the following issues:

1. Does MARAD have the legal authority to give retroactive effect to the elimination of its general U.S. citizenship test for existing participants in its obligation guarantee program?

2. If MARAD has such authority, to what extent should it exercise that authority?

3. With respect to owners of vessels with obligation guarantees that operate in the United States domestic (“coastwise”) trade, for which U.S. citizenship requirements remain, can MARAD’s security interest in these vessels, for which it has issued guarantees, be sufficiently protected if it adopts the self-certification process as to establishing a vessel owner’s citizenship used by the United States Coast Guard for purposes of issuing a coastwise trade endorsement?

4. Should U.S. citizens be given priority for loan guarantees over non-U.S. citizens for operation of U.S.-flag vessels in foreign commerce in the event of scarcity of funds for approval of Title XI obligation guarantees.

By Order of the Maritime Administrator.

Dated: October 31, 1996.

Joel C. Richard,

*Secretary.*

[FR Doc. 96–28416 Filed 11–4–96; 8:45 am]

BILLING CODE 4910–81–P

## National Highway Traffic Safety Administration

[Docket No. 96-112; Notice 1]

### Notice of Receipt of Petition for Decision That Nonconforming 1990-1995 BMW 5 Series Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 1990-1995 BMW 5 Series passenger cars are eligible for importation.

**SUMMARY:** This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1990-1995 BMW 5 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is December 5, 1996.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with

NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90-006) has petitioned NHTSA to decide whether 1990-1995 BMW 5 Series passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are the 1990-1995 BMW 5 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren-Werke, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1990-1995 BMW 5 Series passenger cars to their U.S. certified counterpart, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1990-1995 BMW 5 Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1990-1995 BMW 5 Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence*, . . . , 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorage*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel*

*System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that non-U.S. certified 1990-1995 BMW 5 Series passenger cars are equipped with the same bumpers and bumper support structure as found on the vehicles' U.S. certified counterparts, and that the vehicles therefore comply with the Bumper Standard found in 49 CFR Part 581. The petitioner noted, however, that on some models the bumper strips must be changed to accommodate marker lights and that these components may be purchased from BMW.

Petitioner also contends that non-U.S. certified 1990-1995 BMW 5 Series passenger cars are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) replacement of the speedometer/odometer to one calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lights; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 118 *Power Window Systems*: installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: (a) Installation of a seat belt warning buzzer, wired to the seat belt latch; (b) installation of a knee bolster to augment the automatic restraint system. The petitioner states that the vehicles are equipped with driver's and passenger's side air bags that are identical to those found on the vehicles' U.S.-certified counterparts and that these components will be inspected to ensure that they have the same part numbers as those installed on U.S. models. The petitioner further states that the vehicles are equipped with manual lap and shoulder belts in the front and rear outboard seating positions

and with a lap belt in the rear center seating position.

**Standard No. 214 Side Impact**

**Protection:** Installation of door bars on certain vehicles imported from Germany or Switzerland that may lack these components. The petitioner states that these door bars will be identical to those found on the vehicles' U.S.-certified counterparts, or will be fabricated from appropriate chrome moly tubing.

The petitioner also states that as required under NHTSA regulations on vehicle identification numbers at 49 CFR Part 565, non-U.S. certified 1990–1995 BMW 5 Series passenger cars will have installed a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 30, 1996.

Marilynne Jacobs,  
Director, Office of Vehicle Safety Compliance.  
[FR Doc. 96–28351 Filed 11–4–96; 8:45 am]

BILLING CODE 4910–59–P

**[Docket No. 96–111; Notice 1]**

**Notice of Receipt of Petition for Decision That Nonconforming 1994, 1995, and 1996 Jaguar XJS Passenger Cars Are Eligible for Importation**

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 1994, 1995, and 1996 Jaguar XJS passenger cars are eligible for importation.

**SUMMARY:** This notice announces receipt by the National Highway Traffic Safety

Administration (NHTSA) of a petition for a decision that 1994, 1995, and 1996 Jaguar XJS passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is December 5, 1996.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer 90–005) has petitioned NHTSA to decide whether 1994, 1995, and 1996 Jaguar

XJS passenger cars are eligible for importation into the United States. The vehicles which Wallace believes are substantially similar are the 1994, 1995, and 1996 Jaguar XJS passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1994, 1995, and 1996 Jaguar XJS passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that non-U.S. certified 1994, 1995, and 1996 Jaguar XJS passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1994, 1995, and 1996 Jaguar XJS passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence*, . . . , 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorage*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that non-U.S. certified 1994, 1995, and 1996 Jaguar XJS passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that non-U.S. certified 1994, 1995, and 1996 Jaguar XJS passenger cars are capable of being readily altered to meet the following standards, in the manner indicated:

**Standard No. 101 Controls and Displays:** (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator

lamp; (b) replacement of the speedometer/odometer with one calibrated in miles per hour.

**Standard No. 108 Lamps, Reflective Devices and Associated Equipment:** Installation of U.S.-model headlight assemblies and front sidemarkers.

The petitioner states that non-U.S. certified 1994, 1995, and 1996 Jaguar XJS passenger cars are already equipped with conforming high mounted stop lamps.

**Standard No. 110 Tire Selection and Rims:** Installation of a tire information placard.

**Standard No. 111 Rearview Mirror:** Permanent etching of the required warning statement onto the surface of the passenger side rearview mirror.

**Standard No. 114 Theft Protection:** Installation of a warning buzzer in the steering lock assembly.

**Standard No. 208 Occupant Crash Protection:** Installation of a seat belt warning buzzer. The petitioner states that the vehicles are equipped with driver's and passenger's side air bags that are identical to those found on the vehicles' U.S.-certified counterparts. The petitioner also states that the vehicles are equipped with Type 2 seat belts in all front and rear outboard designated seating positions, and notes that there are no center seating positions in the vehicles.

The petitioner also states that as required under NHTSA regulations on vehicle identification numbers at 49 CFR Part 565, non-U.S. certified 1994, 1995, and 1996 Jaguar XJS passenger cars will have installed a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 30, 1996.

Marilynne Jacobs,  
*Director, Office of Vehicle Safety Compliance.*  
[FR Doc. 96-28352 Filed 11-4-96; 8:45 am]  
**BILLING CODE 4910-59-P**

## Surface Transportation Board<sup>1</sup>

[Finance Docket No. 32530]

**Kansas City Southern Railway Company—Construction and Operation Exemption—Geismar Industrial Area Near Gonzales and Sorrento, Louisiana**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of Final Scope of study for environmental impact statement (EIS).

**SUMMARY:** On April 8, 1996, the Board's Section of Environmental Analysis (SEA) issued a final scope of study and requested written comments. SEA received five comments, has reviewed them, and is re-issuing the final scope of study with a few modifications to clarify certain elements of the scope.

**FOR FURTHER INFORMATION CONTACT:** Michael Dalton, Section of Environmental Analysis, Room 3219, Surface Transportation Board, 12th and Constitution Avenue, NW., Washington, DC 20423; phone number (202) 927-6197. TDD for the hearing impaired: (202) 927-5721.

**SUPPLEMENTARY INFORMATION:** Copies of the complete scope of study have been served on all parties to this proceeding. A copy of the scoping document may be obtained by contacting Mr. Dalton.

A notice of availability of the draft EIS will be announced in the Federal Register and served on all parties to the proceeding.

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to section 49 U.S.C. 10901. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former section of the statute, unless otherwise indicated.

By the Board, Elaine K. Kaiser, Chief,  
Section of Environmental Analysis.

Vernon A. Williams,  
*Secretary.*

[FR Doc. 96-28375 Filed 11-4-96; 8:45 am]

**BILLING CODE 4915-00-P**

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Office of Thrift Supervision, Department of the Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Currently, the Office of Thrift Supervision within the Department of the Treasury is soliciting comments concerning the information collection entitled "Outside Borrowings."

**DATES:** Written comments should be received on or before January 6, 1997, to be assured of consideration.

**ADDRESSES:** Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550-0062. These submissions may be hand delivered to 1700 G Street, NW., from 9:00 A.M. to 5:00 P.M. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7755. Comments over 25 pages in length should be sent to FAX Number (202) 906-6956. Comments will be available for inspection at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Pamela Schaar, Corporate Activities Division, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906-7205.

#### SUPPLEMENTARY INFORMATION:

*Title:* Outside Borrowings.

*OMB Number:* 1550-0062.

*Form Number:* Not Applicable.

**Abstract:** This information is collected from savings associations that do not meet capital requirements. These institutions must give 10 days prior notification before making long-term borrowings. The information is used to monitor the safety and soundness of institutions that do not meet their capital requirements.

**Current Actions:** OTS is proposing to renew this information collection without revision.

**Type of Review:** Extension of an approved collection.

**Affected Public:** Business or For Profit.

**Estimated Number of Respondents:** 10.

**Estimated Time Per Respondent:** 4 hours.

**Estimated Total Annual Burden Hours:** 40.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 28, 1996.

Catherine C.M. Teti,  
Director, Records Management and Information Policy.

[FR Doc. 96-28378 Filed 11-4-96; 8:45 am]

BILLING CODE 6720-01-P

### Submission for OMB Review; Comment Request

October 28, 1996.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office

of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

**OMB Number:** 1550-0021.

**Form Number:** Not Applicable.

**Type of Review:** Renewal.

**Title:** Loan Application Register.

**Description:** Reporting is required by statute to assist OTS in the monitoring of the industry's compliance with the fair lending laws.

**Respondents:** Savings and Loan Associations and Savings Banks.

**Estimated Number of Respondents:** 2,000,000.

**Estimated Burden Hours Per Respondent:** .03 hour.

**Frequency of Response:** 1 per loan.

**Estimated Total Reporting Burden:** 60,000.

**Clearance Officer:** Colleen M. Devine, (202) 906-6025, Office of Thrift Supervision, 1700 Street, N. W., Washington, D.C. 20552.

**OMB Reviewer:** Alexander Hunt, (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Catherine C.M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 96-28379 Filed 11-4-96; 8:45 am]

BILLING CODE 6720-01-P

### Submission for OMB Review; Comment Request

October 28, 1996.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**OMB Number:** 1550-0027.

**Form Number:** Not Applicable.

**Type of Review:** Renewal.

**Title:** Earnings-Based Accounts.

**Description:** The collection is necessary to prevent over-reliance on earnings-based accounts as fundraising tools by savings associations, which in turn, represents a significant risk to the Savings Association Insurance Fund.

**Respondents:** Savings and Loan Associations and Savings Banks

**Estimated Number of Respondents:** 58.

**Estimated Burden Hours Per Respondent:** 25.

**Frequency of Response:** 1 per year.  
**Estimated Total Reporting Burden:** 1,450.

**Clearance Officer:** Colleen M. Devine, (202) 906-6025, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**OMB Reviewer:** Alexander Hunt, (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 96-28380 Filed 11-4-96; 8:45 am]

BILLING CODE 6720-01-P

### DEPARTMENT OF VETERANS AFFAIRS

#### Privacy Act of 1974; Report of Amended Matching Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Social Security Administration (SSA) income tax with VA pension, compensation and parents' dependency and indemnity compensation records.

The goal of this match is to compare income and employment status as reported to VA with income tax records maintained by SSA and adjust or terminate benefits, if appropriate. The match will include records of current VA beneficiaries as well as records of former beneficiaries.

The Department of Veterans Affairs (VA) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive dependency and indemnity compensation from VA with income tax information maintained by SSA. VA also plans to match records of veterans who are receiving disability compensation at the 100 percent rate because the veteran's disabilities keep him or her from engaging in gainful employment.

VA will use this information to verify income and employment information in its master records and adjust VA benefit payments as prescribed by law. Otherwise information about a VA beneficiary's receipt of wages as well as employment status is obtained by reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income and employment status.

**RECORDS TO BE MATCHED:** The VA records involved in the match are the

VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 9294, March 3, 1976 and last amended at 60 FR 20156, April 24, 1995. The SSA records consist of information from the system of records identified as Earnings Recording and Self Employment Income System, HHS/SSA/OSR, 09–60–0059 published at 60 FR 52948, October 15, 1995.

In accordance with Title 5 U.S.C. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match is estimated to start December 3, 1996, but will start no

sooner than 40 days after publication of this Notice in the Federal Register, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

**ADDRESSES:** Interested individuals may submit written comments to the Director, Office of Regulations

Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between 8 a.m. and 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** David G. Spivey (213B), (202) 273–7258.

**SUPPLEMENTARY INFORMATION:** This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both House of Congress and the Office of Management and Budget.

Approved: October 29, 1996.

Jesse Brown,

*Secretary of Veterans Affairs.*

[FR Doc. 96–28325 Filed 11–1–96; 8:45 am]

**BILLING CODE 8320–01–M**

# Corrections

Federal Register

Vol. 61, No. 215

Tuesday, November 5, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 960502124-6190-02; I.D. 042396B]

RIN 0648-AF81

#### Scallop Fishery Off Alaska; Management Measures; 1996-97 Harvest Specifications

##### Correction

In rule document 96-18666 beginning on page 38099 in the issue of Tuesday, July 23, 1996, make the following correction:

On page 38101, in Table 1, a rule should have appeared above Area E to differentiate it and the Areas that follow from the entries under Area D.

BILLING CODE 1505-01-D

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP97-40-000]

#### Northern Natural Gas Company; Notice of Application

##### Correction

In notice document 96-27533 appearing on page 55625, in the first column, in the issue of Monday, October 28, 1996, in the heading the Docket No. should read as set forth above.

BILLING CODE 1505-01-D

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP95-271-006]

#### Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

##### Correction

In notice document 96-27656 appearing on page 55797 in the issue of Tuesday, October 29, 1996, in the third column, in the first line, the docket number should read as set forth above.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

#### Announcement of Availability of Funds for Family Planning Services Grants

##### Correction

In notice document 96-23553 beginning on page 48715 in the issue of Monday, September 16, 1996 make the following corrections:

1. On page 48716, in Table I, under Region V, under Illinois, in the third column, "5,860,119" should read "5,680,119".

2. On the same page, in Table I, under Region V, under Ohio, in the third column, "5,888,625" should read "3,888,625".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Indian Arts and Crafts Board

#### 25 CFR Part 309

RIN 1090-AA45

#### Protection for Products of Indian Art and Craftsmanship

##### Correction

In rule document 96-26876 beginning on page 54551 in the issue of Monday, October 21, 1996 make the following corrections:

1. On page 54552, in the third column, the heading for section 309.1 should read as follows:

*Section 309.1 How Do the Regulations in the Part Carry Out the Indian Arts and Crafts Act of 1990?*

2. On page 54554, in the second column, in the second complete paragraph, in the 13th line "work" should read "word". And on the same page in the third column, in the last line "regulation" should read "regulations".

3. On page 54555, in the first column, in the second complete paragraph, in the first line, "respondents" should read "respondent". And in the same column, under *Drafting Information*, in the second line "Meridith" was misspelled.

#### PART 309—[CORRECTED]

4. On page 54555, in the second column, in the table of contents the heading for § 309.1 is corrected to read as follows:

309.1 How do the regulations in the part carry out the Indian Arts and Crafts Act of 1990?

#### § 309.2 [Corrected]

5. On page 54555, in the third column in § 309.2(c), in the last line "or" should read "of". And in the same column, in § 309.2(d), in the first line "products" should read "product".

6. On page 54556, in the first column, in § 309.3(b)(1), in the fifth line, "or" should read "of".

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 21

[Docket No. 28334; Amendment No. 21-73] RIN 2120-AF10

#### Amendment to the Type Certification Procedures for Changes in Helicopter Type Design to Attach or Remove External Equipment

##### Correction

In rule document 96-11374 beginning on page 20696 in the issue of Tuesday, May 7, 1996, make the following correction:

#### § 21.93 [Corrected]

On page 20699, in the 3d column, in § 21.93(b)(4)(ii), in the 7th line, "it" should read "is"; and in the 11th line, insert a period after "engine".

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 97**

[Docket No. 28716; Amdt. No. 1760]

**Standard Instrument Approach  
Procedures; Miscellaneous  
Amendments**

*Correction*

In rule document 96-27703 beginning on page 55735 in the issue of Tuesday, October 29, 1996, make the following correction:

**§§ 97.23, 97.27, 97.33, 97.35 [Corrected]**

On page 55736, in the second column, in §§ 97.23, 97.27, 97.33, and 97.35, the first paragraph should read:

“By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:”

BILLING CODE 1505-01-D

Estimated  
Receipts  
for  
Fiscal  
Year  
1997

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Tuesday  
November 5, 1996

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**Part II**

**Office of  
Management and  
Budget**

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**Economic Classification Policy  
Committee: Standard Industrial  
Classification Replacement—The North  
American Industry Classification System  
Proposed Industry Classification  
Structure; Solicitation of Comments;  
Notice**

## OFFICE OF MANAGEMENT AND BUDGET

### Economic Classification Policy Committee: Standard Industrial Classification Replacement—The North American Industry Classification System Proposed Industry Classification Structure

**AGENCY:** Office of Management and Budget, Executive Office of the President.

**ACTION:** Notice of solicitation of comments on final recommendations for the North American Industry Classification System.

**SUMMARY:** Under Title 44 U.S.C. 3504, the Office of Management and Budget (OMB) is seeking public comment on the advisability of adopting the proposed North American Industry Classification System (NAICS), the industry classification system developed by OMB's Economic Classification Policy Committee to replace the current Standard Industrial Classification (SIC) system.

OMB has previously published six Federal Register notices seeking comment on the development of NAICS and its content. The March 31, 1993, Federal Register notice, pp. 16990–17004, announced the establishment of the Economic Classification Policy Committee (ECPC) to produce a new industrial classification system for 1997. OMB charged the ECPC with a "fresh slate" examination of economic classifications for statistical purposes, including industrial classifications, product classifications, and product code groupings. The July 26, 1994, Federal Register notice, pp. 38092–38096, solicited comments on the concepts for the new system and the decision to develop NAICS in cooperation with Statistics Canada and Mexico's Instituto Nacional de Estadística, Geografía e Informática (INEGI). That notice also included a request for the public to submit recommendations for industries to be included in the new system. The deadline for submitting proposals for new or revised industries was November 7, 1994.

After considering all proposals from the public, consulting with a large number of U.S. data users and industry groups, and undertaking extensive discussions with Statistics Canada and INEGI, a new industrial structure for NAICS was developed that would apply to all three North American countries. Four Federal Register notices subsequently were published seeking comment on various parts of the

structure and industries of the NAICS system. The first of these four notices was published in the Federal Register, July 26, 1995, pp. 38436–38452, requesting comment on proposed industry structures for petroleum and coal product manufacturing, chemical manufacturing, and rubber and plastics manufacturing; for broadcasting and telecommunications; and for food services and drinking places and accommodations. The second Federal Register notice was published on February 6, 1996, pp. 4524–4578, requesting comment on proposed industry structures for crop production, animal production, forestry and logging; textile mills, textile product mills, apparel manufacturing, and leather and allied product manufacturing; food manufacturing and beverage and tobacco product manufacturing; fabricated metal product manufacturing; machinery manufacturing; electrical equipment, appliance and component manufacturing; and transportation equipment manufacturing. The third Federal Register notice was published on May 28, 1996, pp. 26558–26668, requesting comment on proposed industry structures for health and social assistance; educational services; computers and electronics product manufacturing; furniture manufacturing; printing and related support activities; professional, technical and scientific services; performing arts, spectator sports and related industries; museums, historical sites and similar institutions; recreation, amusement and gambling; information; wood product manufacturing, except furniture; rental and leasing; repair and maintenance; management and support; transportation; mining; paper manufacturing; nonmetallic minerals manufacturing; primary metal manufacturing; miscellaneous manufacturing; and postal service and couriers.

Finally, the fourth of the industry-specific Federal Register notices (constituting the sixth notice concerning the NAICS overall development) was published on July 5, 1996, pp. 35384–35515, requesting comment on proposed industry structures for finance and insurance; wholesale trade; retail trade; construction; utilities; waste management and remediation services; real estate; lessors of other non-financial assets; personal and laundry services; and religious, grant making, civic, and other membership organizations. That notice also presented the entire classification system and requested comments on the proposed hierarchy and coding system of NAICS.

The final deadline for receipt of public comments on the structure and the industries include in NAICS was September 3, 1996. Statistics Canada and INEGI also sought comments on the proposed structures. Further discussions were held among the three countries to consider public comments received from all three countries. Changes incorporated into the new system based on these comments are shown and explained in the **SUPPLEMENTARY INFORMATION** section of this notice.

After this extensive process of development and discussions by the ECPC, with maximum possible input as called for by its mandate, OMB is seeking comment on the advisability of accepting NAICS, with the changes published in this notice, as the industry classification system to be employed in relevant statistical collections by all U.S. statistical agencies. Statistics Canada and INEGI have accepted the new NAICS system, which will be used for industrial classification in the statistical programs of Canada and Mexico.

**DATES:** To ensure consideration of comments on the adoption and implementation of NAICS, comments must be in writing and should be submitted as soon as possible, but no later than December 20, 1996. This proposed industry system would become effective in the U.S. on January 1, 1997.

**ADDRESSES:** Correspondence about the adoption and implementation of NAICS as shown in this Federal Register notice should be sent to: Katherine K. Wallman, Chief Statistician, Office of Management and Budget, 10201 New Executive Office Building, Washington, D.C. 20503, telephone number: (202) 395–3093, FAX number: (202) 395–7245.

Inquiries about the content of industries or requests for electronic copies of the tables should be made to Carole Ambler, Coordinator, Economic Classification Policy Committee, Bureau of the Census, Room 2633–3, Washington, DC 20233, telephone number: (301) 457–2668, FAX number: (301) 457–1343.

**ELECTRONIC AVAILABILITY AND COMMENTS:** This document is available on the Internet from the Census Bureau via WWW browser, ftp, and E-mail.

To obtain this document via WWW browser, connect to "http://www.census.gov" then select "Subjects A to Z", then select "N", then select "NAICS (North American Industry Classification System)." This WWW page contains previous NAICS Federal

Register notices and related documents as well.

To obtain this document via ftp, login to ftp.census.gov as anonymous, and retrieve the files "naicsfr7.pdf," "naicsfr7 TBL1.pdf," and "naicsfr7 TBL2.pdf" from the "/pub/epcd/naics" directory. (That directory also contains previous NAICS Federal Register notices and related documents.)

To obtain this document via Internet E-mail, send a message to majordomo@census.gov with the body text as follows: "get gatekeeper naics.txt". Instructions for obtaining this and other NAICS documents will be delivered as a message attachment.

Comments may be sent via Internet E-mail to OMB at naics@a1.eop.gov (do not include any capital letters in the address). Comments received at this address by the date specified above will be included as part of the official record.

**FOR FURTHER INFORMATION CONTACT:** Paul Bugg, 10201 New Executive Office Bldg., Washington, DC 20503, E-mail address: bugg\_p@a1.eop.gov, telephone number: (202) 395-3093, FAX number: (202) 395-7245. Inquiries about the content of industries or requests for electronic copies of the tables should be made to Carole Ambler, Coordinator, Economic Classification Policy Committee, Bureau of the Census, Room 2633-3, Washington, DC 20233, telephone number: (301) 457-2668, FAX number: (301) 457-1343.

#### SUPPLEMENTARY INFORMATION:

The development of NAICS began in 1992 with the establishment of the Economic Classification Policy Committee by OMB to study the desirability of developing a new industry classification system for the United States based on a single economic concept. A March 31, 1993, Federal Register notice, pp. 16990-17004, announced the establishment of the Economic Classification Policy Committee (ECPC) by OMB and set out its charter including a "fresh slate" examination of economic classifications for statistical purposes, including industrial classifications, product classifications, and product code groupings. In a July 26, 1994, Federal Register notice, pp. 38092-38096, OMB announced that NAICS was being developed in cooperation with Statistics Canada and INEGI and requested comments on that decision as well as requesting public comments on the structure of the system. That notice also included the concepts of the new system and the principles upon which it would be developed. Those are as follows:

(1) NAICS will be erected on a production-oriented, or supply-based, conceptual framework. This means that producing units that use identical or similar production processes will be grouped together in NAICS.

(2) The system will give special attention to developing production-oriented classifications for (a) new and emerging industries, (b) service industries in general, and (c) industries engaged in the production of advanced technologies.

(3) Time series continuity will be maintained to the extent possible. However, changes in the economy and proposals from data users must be considered. In addition, adjustments will be required for sectors where Canada, Mexico, and the United States presently have incompatible industry classification definitions in order to produce a common industry system for all three North American countries.

(4) The system will strive for compatibility with the 2-digit level of the International Standard Industrial Classification of All Economic Activities (ISIC, Rev. 3) of the United Nations.

The structure of NAICS was developed in a series of meetings among the three countries. NAICS is organized in a hierarchical structure, much like the existing U.S. SIC. The 1987 SIC employs a 4-digit coding system, in which the first two digits designate what in NAICS is known as a "subsector," the third digit designates the industry group, and the fourth digit designates the industry. For example, in the 1987 SIC, the two digits 26 designate the manufacture of "Paper and Allied Products," within which the digits 262 designate an industry group titled "Paper Mills," which contains one 4-digit industry, SIC 2621, also titled "Paper Mills."

The NAICS coding system must be expanded beyond the four digits used in the SIC for two reasons. First, the NAICS agreements among the ECPC, INEGI, and Statistics Canada permit each country to designate detailed industries, below the level of a NAICS industry, to meet national needs. The United States will have such national industry detail in many places in the new classification, and this national detail can only be accommodated by expanding the coding system to at least five characters. In the U.S. NAICS, the sixth digit designates the U.S. detailed national industries.

Second, it is desirable that the first character or characters in a coding system designate the sector (the NAICS term "industry sector" is replacing the term "division" used in the 1987 SIC). A modern economy is too complex to be

described adequately if the first character of the coding system restricts the number of sectors to nine or ten. For example, the ECPC is recommending that NAICS have 20 industry sectors. Accordingly, the first two digits are used to designate the sector in NAICS.

The ECPC is recommending a six digit coding system in which the first two digits designate the NAICS sector, and the third, fourth, fifth, and sixth digits designate, respectively, the subsector, industry group, NAICS industry, and U.S. national industry (if any). Though the 1997 U.S. NAICS industries will now have six digits compared to four digits for 1987 SIC industries, there will not be a corresponding increase in the level of classification detail that the 1997 NAICS provides compared to the 1987 SIC. As explained above, the two additional digits are simply the result of allowing for more sectors and for individual country-level detail.

Public proposals for individual industries from all three countries were considered for acceptance if the proposed industry was based on the production-oriented concept of the system.

In response to the July 26, 1994, notice, the ECPC received 125 public responses to the call for proposals for new and revised industries, plus 8 responses from 6 State government agencies, and 9 responses from 6 Federal Government agencies. These formal responses to the July 26, 1994, Federal Register notice contained several hundred proposals. Additional proposals and suggestions for change arose from the extensive ECPC public outreach program, which consisted of meetings and other communications with industry, data user, and data respondent groups. Other proposals for modifications such as changing industry definitions and clarifying boundaries, came from U.S. statistical agency personnel who worked on NAICS, reflecting accumulated public comments and criticism, over a number of years, of the U.S. SIC system. A number of proposals to eliminate U.S. industries, or to combine them with other industries, were also received.

Comments to the ECPC from all these sources ranged over many aspects of the 1987 SIC system. For example, approximately 20 percent of the formal letters received concerned ambiguities in the titles and definitions of the 1987 SIC industries, and incomplete or out of date product lists. Over 40 respondents requested more and better-defined product detail within existing industries, without necessarily requesting changes to industry boundaries. These requests and

suggestions are being handled through the redesign of forms where product information is collected in the 1997 Economic Censuses.

Another group of responses to the notice were proposals for "a separate, market-oriented product grouping system" (Federal Register, July 26, 1994, p. 38095), to be put in place following the 1997 Economic Censuses. Some proposals that were submitted as industry proposals were, after analysis by the ECPC, found more appropriately to be market groupings, and have been held over for future action.

After accounting for the public responses in the above categories, a high proportion of the proposals for new industries made to the ECPC were accepted. When a proposal was not accepted, it was usually because: (a) the resulting industry would have been too small in the U.S.; (b) data indicated that the specialization ratio was low (the specialization ratio indicates to what extent the establishments in a given industry concentrate on the activities that define the industry); or (c) the proposal did not meet the production-oriented criterion for forming an industry in NAICS.

Proposals were also received for changing or modifying the boundaries of existing industries, without necessarily creating a new industry. In addition, changes to 1987 SIC industry definitions were frequently required to bring about compatibility with the Canadian and Mexican classifications (as were corresponding changes in those countries' classification systems). Those changes are listed and described in the four Federal Register notices that described the proposed NAICS system. Some changes that were required for international compatibility interacted with proposed changes from the U.S. public, and in some cases the two kinds of changes forced a broader rethinking of the entire portion of the structure. The results of the ECPC's examination of the U.S. classification system, and its work with INEGI and Statistics Canada to form a new North American system, are presented in the series of Federal Register notices listed above, culminating in the July 5, 1996, Federal Register notice, pp. 35384-35515, that contains the full NAICS system as originally proposed by the ECPC.

In response to the last four Federal Register notices containing various sections of the proposed classification system, which was summarized in the July 5, 1996, Federal Register notice, the ECPC received approximately 400 additional comments. Each comment was considered in preparing the revised structure that the ECPC is now

recommending for adoption. In the discussion below in the Significant Comments or Changes section, these four Federal Register notices, as summarized in the July 5, 1996, notice, serve as the base proposal against which changes in response to comments are noted. The ECPC also consulted with INEGI and Statistics Canada regarding the comments received and discussions were held to incorporate the necessary changes into the new system.

A significant number of comments supported the development of NAICS, expressed the view that NAICS is a significant improvement over the SIC system, or supported the inclusion in NAICS of specific industries. Other comments included offers to help write the detailed descriptions of certain industries. There were also a number of comments remarking on the need to ensure time series comparability, in the transition from the SIC system to NAICS.

Approximately 10 percent of the comments received requested clarification of a concept or industry title—for example, comments requesting further elaboration or explanation of some of the industries proposed; interpretation of the boundaries of some of the proposed industries; or requests for changes to titles of proposed industries. The ECPC subcommittees are communicating with these respondents via telephone, e-mail, or personal meetings to answer these kinds of questions. This process will continue over the next several months.

There were only a few comments regarding the proposed coding system. As discussed above, the NAICS codes requires additional digits beyond the four digits used in the SIC system. The first extra digit permits NAICS to have more than 10 sectors and to build the sector into the coding system; the final digit permits breaking out U.S. national industries, where it is important to do so, below the NAICS industry level. Four comments supported a 6-digit numeric system while three supported an alphanumeric system. Because there was no strong support for one system over the other, because both Canada and Mexico support the 6-digit system, and because implementing a 6-digit numeric system is easier and less expensive for the U.S. statistical system, the ECPC recommends the adoption of a 6-digit numeric system.

About one half of the comments received in response to the proposed system related to requests for changes. Many of these comments asked for additional industries to be recognized, even though these requests were originally due on November 7, 1994.

However, the ECPC did consider such requests. About 30 percent of these requests were accepted. Significant changes made as a result of these comments are discussed below. Changes were also made to the proposed structure based on further study and additional information about the proposed industries received by the ECPC subcommittees. Still other changes are the result of comments from Canadian and Mexican users of the new system. These too are noted below.

There also are a number of title changes to better describe the contents of the industries. Title changes are reflected in Table 1. Some revisions are made to the numerical codes for industries as published in the July 5, 1996, Federal Register notice. These changes were made to present a more logical sequencing of the industries in the coding system; to account for new industries and changes to industries as a result of the Federal Register comments; and to account for the new sector added to the structure. In addition, because there is not three country agreement for detailed industries in some of the sectors (construction, utilities, wholesale trade, retail trade, and public administration), the three countries have assigned different numbers to these sectors to signify that the industries are not comparable across the three countries.

The ECPC received a number of comments that suggested changes to NAICS that were not accepted. All of these suggestions were carefully considered. Some of the suggestions were modified at the request of the ECPC to better meet the objectives of NAICS. Others were suggestions for products that will be considered in the future development of a product system. Other suggestions for change could not be justified on a production basis, or could not be implemented in statistical programs, for a variety of reasons, and thus were not accepted. The ECPC is currently preparing a response for each of these suggestions, carefully explaining why they were not accepted.

#### Significant Comments or Changes

*Agriculture, Forestry, Fishing, and Hunting*—Major industry associations objected to moving cotton ginning from agriculture to manufacturing. They argued that cotton ginning is not a manufacturing process, but rather a service to the agriculture sector. The ECPC agreed with the arguments and cotton ginning is moved to agriculture and shown as NAICS code 115111.

The Root, Tuber, and Peanut Farming industry group is deleted because the production process of that industry

group can not be easily differentiated from that of the Vegetable and Melon Farming industry group. Potato farming is now included with Vegetable and Melon Farming as a U.S. national industry and peanut and sugar beet farming are U.S. national industries under Other Crop Farming.

At the request of Mexico, poultry hatcheries and other poultry production are elevated to NAICS five-digit industries. No change is implied for the U.S. national industry structure. U.S. national industries are added for Oilseed and Grain Combination Farming, and Fruit and Tree Nut Combination Farming to account for those farms that carry out a range of activities. All other combination farming will be classified in All Other Crop Farming. These activities were not accounted for in the original structure as published in the July 5, 1996 Federal Register notice.

**Manufacturing**—A number of new U.S. national industries were created at the request of industry groups. All of these new industries are large, production based industries that cannot be recognized separately by either Canada or Mexico. These industries are Bottled Water Manufacturing; Secondary Smelting, Refining and Alloying of Copper; Nonferrous Metals (except Copper and Aluminum) Rolling, Drawing, and Extruding; Secondary Smelting, Refining and Alloying of Nonferrous Metals (except Copper and Aluminum); Printed Circuit/Electronics Assembly Manufacturing; and Light Truck and Utility Vehicle Manufacturing.

NAICS industry group 3116, Meat and Seafood Product Manufacturing, is split into two industry groups at the request of the province of Newfoundland. The production processes for meat and seafood products are significantly different, and the size of these industries in all three countries allow for the creation of two industry groups as follows: 3116, Meat Product Manufacturing, and 3117, Seafood Product Preparation and Packaging. NAICS 3117, Bakeries and Tortilla Manufacturing, is renumbered 3118.

U.S. NAICS 312142, Ethyl Alcohol Manufacturing, is moved to NAICS 32519, Other Organic Chemical Manufacturing, and a new U.S. NAICS industry, 325193 Ethyl Alcohol Manufacturing, is established. An error was made in placing ethyl alcohol for nonfood uses in the food industries.

The sequencing of subsector 315, Apparel Manufacturing, is changed. NAICS 3151 is revised to represent Apparel Knitting Mills; NAICS 3152 is Cut and Sew Apparel Manufacturing;

and NAICS 3159 is Apparel Accessories and Other Apparel Manufacturing. The NAICS agreement is now at the industry group level and comparable data will be shown by all three countries for NAICS 3151, 3152, and 3159. The United States and Canada, however, are establishing comparable industries below the industry group level. These industries are: 31521, Cut and Sew Apparel Contractors; 31522, Men's and Boys' Cut and Sew Apparel Manufacturing; 31523, Women's and Girls' Cut and Sew Apparel Manufacturing; and 31529, Other Cut and Sew Apparel Manufacturing. The country-level six digit detail for Canada and the U.S. also is comparable where possible. Since the fabric for knit apparel garments is first knit and then may be cut and sewn, grouping apparel knitting mills before cut and sew manufacturers is a more logical grouping in the production process. Mexico requested that the NAICS distinction for contractors be dropped since that distinction was difficult for them to make, but it is retained as shown above for Canada and the U.S.

The Wood Product Manufacturing subsector is restructured. Specifically, NAICS 3212, Laminated Wood Product Manufacturing, is retitled Veneer, Plywood, and Engineered Wood Product Manufacturing because this title better reflects terminology used within the industry. Truss Manufacturing is moved to industry group 3212 from industry group 3219, Other Wood Product Manufacturing. Truss Manufacturing is now represented by U.S. NAICS code 321214. NAICS industry group 32191, Wood Construction Product Manufacturing, is retitled Millwork. These changes are made to reflect the new and emerging industry of engineered wood and to more accurately reflect the production processes used in the manufacture of trusses. The products included in NAICS 32191, Millwork, are made from wood that is sawn and molded into wood products such as doors, windows, flooring, etc. Truss manufacturing is much more than just sawing and/or molding a product. Truss manufacturing involves fabricating (including laminating) wood into various configurations that meet certain endurance and structural requirements. Design of the truss to meet these requirements is extremely important. Many times metal pieces are affixed to the end. Trusses are made more like other products included in NAICS industry group 32121, Veneer, Plywood, and Engineered Wood Product Manufacturing, than they are like those produced in 32191, Millwork.

The ordering and title of subsector 326, Rubber and Plastics Product Manufacturing, is changed. The new title is Plastics and Rubber Product Manufacturing and NAICS industry group 3261 now represents Plastics Product Manufacturing while 3262 represents Rubber Product Manufacturing. This change was done to reflect the order in terms of the size of the two industries.

A number of changes are made to NAICS industry group 331, Primary Metal Manufacturing. Specifically, the title of U.S. national industry 331312, Primary Refining of Aluminum is changed to Primary Aluminum Production. The trade association pointed out that the original title was incorrect and should be changed. The titles for industry group 3313 and NAICS industry 33131, Smelting, Refining, Rolling, Drawing and Extruding of Aluminum, are changed to Alumina and Aluminum Production and Processing. This shortens the title and provides a better description of the content of the industry group and industry. The term alloying is added to U.S. national industries 331314, Secondary Smelting and Refining of Aluminum; and 331413, Secondary Smelting and Refining of Nonferrous Metals (renumbered and retitled 331492, Secondary Smelting, Refining, and Alloying of Nonferrous Metals (except Copper and Aluminum). The addition of the term alloying clearly designates that the alloying activity is included in these industries.

NAICS industry groups 3326, Spring, Wire, and Turned Product Manufacturing, and 3327, Machine Shops and Coating, Engraving, Heat Treating and Allied Activities, are restructured to better reflect the production process of the industries included in the industry groups. Specifically, the trade association pointed out that the production processes for machine shops and turned product manufacturing are similar and often the same, using the same type of machinery. The only difference is that machine shops usually produce on a small scale special or "job" order basis, while turned product manufacturing establishments usually produce on a large scale basis or "mass produce." Thus, turned product manufacturing should be grouped with machine shops rather than with spring and wire product manufacturing. Turned product manufacturing then is moved from industry group 3326 now titled, Spring and Wire Product Manufacturing, to industry group 3327, now titled Machine Shops, Turned Product, and Screw, Nut, and Bolt Manufacturing.

NAICS industry, 33272, Coating, Engraving, Heat Treating and Allied Activities, and the U.S. national industries 332721, Metal Heat Treating; 332722, Metal Coating, Engraving and Allied Services to Manufacturing (except Jewelry and Silverware); and 332723, Electroplating, Plating, Polishing, Anodizing and Coloring, are moved to a new NAICS industry group 3328, Coating, Engraving, Heat Treating, and Allied Activities. The NAICS industry has the same title and no changes are made to the U.S. detail except for the following title changes: 332822, Metal Coating, Engraving, and Allied Services to Manufacturing (except Jewelry and Silverware).

Water coolers are moved from NAICS 33522, Major Appliance Manufacturing, to NAICS 33341, Heating, Ventilating, Air-Conditioning, and Commercial Refrigeration. Water coolers are made by establishments also producing heating, ventilating, air-conditioning, and commercial refrigeration, not major appliance manufacturers.

Writing, drawing, artists and stamp pad inks are moved from NAICS industry 32591, Printing Ink Manufacturing, to 32599, Other Miscellaneous Chemical Product Manufacturing (retitled All Other Chemical Product Manufacturing). Establishments producing printing ink do not also produce writing, drawing, artists and stamp pad inks and the production processes are different.

To clarify the placement of some activities, toners are included in NAICS 32599, Other Miscellaneous Chemical Product Manufacturing (retitled All Other Chemical Product Manufacturing) while ink jet or bubble jet inks and electrostatic inks are included in NAICS 32591, Printing Ink Manufacturing. The manufacturing of these products is classified according to the production process based on a study to determine which manufacturers are making these products.

Foam products made from materials other than polystyrene and urethane are included in NAICS 32625, Urethane Foam Product Manufacturing, now titled Urethane and Other Foam Product (except Polystyrene) Manufacturing. No allowance was originally made for foam products from materials other than polystyrene and urethane.

A new NAICS industry is created for sign manufacturing. Sign manufacturing in the NAICS structure published on July 5, 1996, was dispersed throughout the manufacturing subsectors based on component material. However, the trade association pointed out that sign manufacturing is a special production process and establishments do not

specialize in sign making by type of material. Rather, they make signs from any material based on customer specifications. Therefore, NAICS is restructured to establish a separate sign manufacturing industry, 33995, Sign Manufacturing.

Gasket manufacturing is moved to NAICS 33999, All Other Miscellaneous Manufacturing, and a new U.S. national industry is created, 339991, Gasket Manufacturing. As with sign manufacturing, NAICS originally classified gasket manufacturing according to component material. However, further study indicates that producers of gaskets do not specialize by type of material, but rather produce gaskets of many materials in the same establishment. Therefore, a separate U.S. national industry is established for gasket manufacturing.

Reconditioning of barrels and drums is moved from NAICS 332499, Other Metal Container Manufacturing, to NAICS 81121, Heavy and Industrial Machinery Equipment and Repair. The industry association pointed out that the chief activity in reconditioning barrel and drum establishments is cleaning and repainting or refinishing barrels and drums. Used drums are obtained and cleaned using a chemical cleansing solvent or a burning process is used to burn out impurities. The drums are then painted or coated according to the customer's specification. Since cleaning and repainting is the main activity of these establishments, the activity more logically fits in the repair and maintenance subsector.

Automotive and truck air conditioning compressors and systems (excluding unitary systems and mechanical refrigeration equipment) is moved from U.S. NAICS 333415, Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing, to NAICS industry 33639, Other Motor Vehicle Part Manufacturing. A U.S. national industry, 336391, Motor Vehicle Air Conditioning Manufacturing is added. The proposed industry is well defined and highly specialized. The manufacture of this type of air conditioning equipment is distinct from other kinds (residential or industrial) due to standards required by motor vehicle manufacturers, such as size, strength of components, environmental requirements, etc. Classifying these motor vehicle parts in the Transportation Equipment Manufacturing subsector is consistent with similar decisions made in NAICS to group all transportation equipment manufacturing together.

NAICS industries and the U.S. detail under 33713, Wood Furniture Manufacturing; 33714, Metal Furniture Manufacturing, and 33715, Other Furniture Manufacturing, are changed. This change is made at the request of trade associations in both Canada and the U.S. There are now two NAICS industries for furniture. They are 33713, Wood Household Furniture Manufacturing and 33714, Non-wood Furniture Manufacturing. Within this structure, the U.S. will recognize the following industries: 337131, Wood Kitchen Cabinet and Counter Top Manufacturing; 337132, Upholstered Wood Household Furniture Manufacturing; 337133, Wood Household Furniture (except Upholstered) Manufacturing; 337134, Wood Office Furniture Manufacturing; 337135, Custom Architectural Woodwork and Millwork Manufacturing; and 337139, Other Wood Furniture Manufacturing; 337141, Nonwood Office Furniture Manufacturing; 337142, Metal Household Furniture Manufacturing; 337143, Household Furniture (except Wood and Metal) Manufacturing; 337145, Nonwood Showcase, Partition, Shelving, and Locker Manufacturing; and 337148, Other Nonwood Furniture Manufacturing. In addition, the three countries agreed that each would work towards adopting the complete structure in the future. Also convertible sofa manufacturing is moved from NAICS 33711, Mattress Manufacturing, to 33713, Wood Furniture Manufacturing. Convertible sofa manufacturing is not like mattress manufacturing, but is furniture manufacturing.

Quick printing is moved from NAICS 571431 (renumbered 561431), Photocopying and Duplicating Services, to NAICS 32311, Printing. A new U.S. national industry, 323114, Quick Printing, is established. Industry representatives pointed out that quick printing uses inputs, labor skills, and capital equipment that are similar to those used in traditional printing establishments and therefore should be classified in the printing subsector. These establishments do, however, employ different production processes than traditional printers and should be classified in a separate industry within the printing subsector. Quick printing includes any establishment that has an offset printer with a maximum paper size less than "18" X "23" and no other "traditional" type printing equipment such as "large offset, flexographic, screen, etc." Also included are establishments that have photocopy type equipment and offer prepress

services; and establishments that have electrostatic digital type printers only, that primarily print text type documents. Excluded from this industry are establishments known as copy shops, which use only photocopy type equipment and do not offer prepress services. These establishments remain in U.S. NAICS 561431.

A new U.S. national industry is created for Digital Printing, U.S. NAICS 323115. Digital printing includes establishments that use a unique process involving heavy "front end" or prepress processing. Establishments in this industry use sophisticated scanning equipment and powerful computing equipment to prepare computerized input to newly developed digital output devices (printers). The products of this industry are typically banners, signs, and posters that are generally of high quality and large size. They are graphic as opposed to textual products. This is a distinct production process that is a new and emerging industry that should be recognized in NAICS.

U.S. NAICS industry 323111, Printing on Apparel, is combined with 323116, (renumbered 323113) Commercial Screen Printing. Industry representatives commented that almost all printing on apparel is screen printing and thus a separate industry for printing on apparel should not be recognized. Printing on apparel involves the use of the same kind of equipment (screen printing machines) and has the same highly skilled screen plate labor, and similar raw materials.

The U.S. national industries within NAICS 32311, Printing, are renumbered to reflect the addition of the two industries noted above and the deletion of a separate industry for printing on apparel. The industries are as follows: 323110, Commercial Lithographic Printing; 323111, Commercial Gravure Printing; 323112, Commercial Flexographic Printing; 323113, Commercial Screen Printing; 323114, Quick Printing; 323115, Digital Printing; 323116, Manifold Business Form Printing; 323117, Book Printing; 323118, Blankbook, Loose-leaf Binder, and Device Manufacturing; and 323119, Other Commercial Printing.

NAICS industries 32721, Glass and Glass Product Manufacturing, and 32722, Glass Container Manufacturing are combined. The glass container manufacturing industry is too small to support in Canada. The U.S. will maintain the detail as published in the July 5, 1996, Federal Register notice under the new NAICS industry 32721, Glass and Glass Product Manufacturing.

**Retail Trade**—At the request of industry associations, NAICS industry

44823, Accessories Stores (retitled Clothing Accessories Stores), is moved to NAICS industry group 4481, Clothing Stores (retitled Clothing and Clothing Accessories Stores). As a result of that change, NAICS industry group 4482, Jewelry and Accessories Stores, is retitled Jewelry, Luggage, and Leather Goods Stores. In addition, the sequencing of industry groups 4482 and 4483 is changed so that 4482 now represents shoe stores and 4483, jewelry, luggage, and leather goods stores. These changes were made to ensure that all clothing stores are grouped together and to reflect the relative importance of the industries within the industry group.

**Transportation**—In the Federal Register published on July 5, 1996, warehousing was shown as an industry group within subsector 488, Support Activities for Transportation. Industry associations pointed out that warehousing is not a support activity only for transportation; a modern warehouse provides not only storage, but other services, including inventory control, and provides them to many using industries. Further, they indicated that warehousing is such an important activity in all three NAICS countries that NAICS should reflect industries for general warehousing and storage. All three countries agreed with this description of the warehousing industry and the following changes are made: sector 48–49 is retitled Transportation and Warehousing and the former industry group 4886, Storage Facilities, is elevated to a subsector and retitled Warehousing and Storage Facilities. U.S. national detail industries 488691, General Storage Facilities, and 488699, All Other Storage Facilities, are elevated to five-digit NAICS industries and retitled General Warehousing and Storage Facilities and All Other Warehousing and Storage Facilities, respectively. The new subsector is 493, Warehousing and Storage Facilities.

**Information**—NAICS industry 51213, Teleproduction and Other Post Production Services, is combined with NAICS 51219, Other Motion Picture and Video Industries, and 51219 is retitled Post Production and Other Motion Picture and Video Industries. The U.S. establishes a 6-digit national industry 512191, Teleproduction and Other Post Production Services, for this industry. The combination is made at the NAICS level because the industry is not large enough in Canada to recognize as a separate NAICS industry.

**Finance and Insurance**—U.S. industry group 5251, Holding Companies, is moved to a new sector called Management of Companies and

Enterprises, NAICS 55. See the explanation of this sector below for a description of the industries to be included in the new sector.

NAICS 52411 is expanded to include both life and health insurance establishments. The industry 52411 is retitled Direct Life, Health, and Medical Insurance Carriers and NAICS 52412 is retitled Direct Insurance Carriers (except Life, Health, and Medical). The U.S. national detail shows the following industries under each: 524111, Direct Life Insurance Carriers; 524112, Direct Health and Medical Insurance Carriers; 524121, Direct Property and Casualty Insurance Carriers; 524122, Direct Title Insurance Carriers; and 524129, Other Direct Insurance Carriers (except Life, Health, and Medical). This change was requested by Canada because of the structure of their health insurance industry and their inability to separate life insurance carriers from health and medical insurance carriers.

**Real Estate; Rental and Leasing**—A separate industry group is created for NAICS 55122, Offices of Real Estate Agents and Brokers. It becomes industry group 5512, Offices of Real Estate Agents and Brokers, with one NAICS industry in that industry group, 55121, Offices of Real Estate Agents and Brokers. NAICS 5212, Activities Related to Real Estate, becomes industry group 5213, Activities Related to Real Estate, with the same national detail as published in the July 5, 1996, Federal Register notice, except for real estate agents and brokers. This change is made to recognize the importance of this industry to real estate and to recognize the different production process of the industry.

U.S. NAICS 531291, Title Abstract Offices, is moved to U.S. NAICS 541191, Title Abstract and Settlement Offices, in the Professional, Scientific, and Technical Services sector under industry 56119 (renumbered 54119), Other Legal Services. Title abstract offices provide a type of legal services and thus "fit" better in the legal services industry group.

Condominium associations are moved to NAICS 81399, All Other Organizations. Some of these organizations provide property management services, but others do not. In the U.S., it is not possible to separate the two types of organizations, so it was decided to place them all in 81399.

With the changes to offices of real estate agents and brokers, title abstract offices, and condominium associations, agreement is reached with Canada and Mexico on the structure of the real estate subsector at the industry group level, though not at the NAICS industry

level. The previously published structure would not have provided common North American data for this subsector.

U.S. NAICS industry 532212, Home and Garden Equipment Rental is deleted. A new industry group 5323, General Rental Centers, is created and any establishments primarily renting home and garden equipment and/or a wide range of consumer, and commercial/industrial equipment is included. A new NAICS industry, 53231, General Rental Centers, is also created. Very few establishments primarily rent home and garden equipment. Rental of these items is done either by hardware stores or "rental centers" that rent many different types of equipment, both home and garden and other consumer and commercial/industrial equipment. Therefore, the U.S. industry for home and garden equipment rental is deleted.

*Professional, Scientific, and Technical Services*—The sector has been renumbered 54 from 56. This renumbering was done to provide for a more logical sequencing of the numbers. Therefore, the first two digit of all numbers within this subsector now are 54.

NAICS industry group 5612 (renumbered 5412) Accounting, Tax Preparation, Bookkeeping and Payroll Services is restructured. NAICS industries 56121, Offices of Accountants, and 56122, Tax Preparation, Bookkeeping, and Payroll Services are deleted. U.S. national industries 561212, Offices of Accountants, Except Certified, and 561222, Bookkeeping and Billing Services, are also deleted. It was determined in writing descriptions for these industries that many of the activities outlined in the tax preparation, bookkeeping, and payroll services industries also were performed by accountants. A clear distinction between the industries could not be made. Therefore, the industry group is restructured to include only one NAICS industry 54121, Accounting, Tax Preparation, Bookkeeping and Payroll Services. Four national industries are included in this NAICS industry as follows: 541211, Offices of Certified Public Accountants; 541212, Tax Preparation Services; 541213, Payroll Services; and 541219, Other Accounting Services.

NAICS industry group 5613 (renumbered 5413), Architectural, Engineering, and Related Services, is reordered to include NAICS 56135 (renumbered 54132), Landscape Architectural Services, after 56131 (renumbered 54131), Architectural

Services. Industry groups pointed out that landscape architecture firms perform design services comparable to architectural and engineering firms and grouping them in sequence reflects the similarities in process among them. Industry group 5413 is structured as follows: 54131, Architectural Services; 54132, Landscape Architectural Services; 54133, Engineering Services; 54134, Drafting Services; 54135, Building Inspection Services; 54136 Geophysical Surveying and Mapping Services; 54137, Survey and Mapping (except Geophysical) Services; and 54138, Testing Laboratories.

U.S. NAICS industries 561491, Land Use Planners Services, and 561499, All Other Design Services, are deleted. Land use planning services are now included with 54132, Landscape Architectural Services. It was pointed out by an industry association that there are not specialized establishments providing land use planning services; rather, this is an activity normally carried out by landscape architects. That activity is therefore included with NAICS 54132, Landscape Architectural Services.

*Management of Companies and Enterprises*—A new sector is created that includes holding companies and corporate, subsidiary, and regional managing offices. All of these establishments are engaged in the management of large, multiple establishment companies and do not fit logically into the structure of any of the other NAICS sectors. Within the new sector the U.S. will recognize three national industries 551111, Bank Holding Companies; 551112, Other Holding Companies; and 551113, Corporate, Subsidiary, and Regional Managing Offices. The three countries recognized that holding companies are economic entities with employees and receipts that should be recognized in NAICS and not included in the U.S. only subsector 525, Funds, Trusts, and Other Financial Vehicles. See the section on auxiliaries below for a full description of the corporate, subsidiary, and regional managing office industry.

*Management, Support, Waste Management, and Remediation Services*—The sector is renumbered 56 from 57. This renumbering was done to provide for a more logical sequencing of the numbers and to accommodate the new sector described above. Therefore, the first two digits of all numbers within this subsector now are 56. The sector is also retitled Administrative and Support, Waste Management and Remediation Services to distinguish it from the new sector Management of Companies and Enterprises.

Farm management and construction management are moved to the agriculture and construction sectors, respectively. The activities carried out in these establishments require specialized knowledge of the agriculture and construction industries and are not in any way like the activities in NAICS 57111, Management Services (now renumbered and retitled 56111, Office Administrative Services), where they were originally classified. New NAICS 56111, Office Administrative Services, now includes only those establishments that are primarily engaged in providing office administrative services, a much more homogeneous grouping.

U.S. national industries 571731, Lawn and Garden Services, and 571732, Ornamental Shrub and Tree Services, are deleted. There is no clear distinction between the activities of the establishments included in these industries since many establishments that care for shrubs and trees also provide lawn and garden services. It is also true that establishments that provide lawn services care for shrubs and trees.

A question was raised by an industry group on the placement of landscape installation services. That activity is included in NAICS 57172 (renumbered 56172), Landscape Care and Maintenance, which is retitled Landscape Services.

NAICS industry 57112, Facilities Support Management, is elevated to an industry group. This is a U.S. only activity and is very different from the activities included in NAICS 57111 (renumbered 56111), Management Services (retitled Office Administrative Services), with which facilities support management was grouped. The new industry group and industry are 5612, Facilities Support Services, and 56121, Facilities Support Services.

*Educational Services*—U.S. NAICS industry 611512, Vocational and Technical Schools, is combined with U.S. NAICS industry 611519, Other Technical and Trade Schools. No distinction can be made between these two industries so they are combined.

The comparability among the three countries for NAICS 6111, Elementary and Secondary Schools, is at this industry group level. Mexico needs additional industries that can only be accommodated if NAICS comparability is at the industry group level. This does not affect the U.S. structure.

*Health Care and Social Assistance*—U.S. NAICS industry 621611, Home Health Agencies, is combined with U.S. NAICS industry 621619, Other Home Health Care Services. No distinction

between these two industries can be made so they are combined.

*Arts, Entertainment, and Recreation*—NAICS industry group 7131, Operators of Sports and Recreation Facilities, is deleted and those NAICS industries formerly included in this industry group are move to NAICS industry group 7139 retitled Other Amusement and Recreation Industries. The following NAICS industries are included under that industry group: 71391, Golf Courses and Country Clubs; 71392, Skiing Facilities; 71393, Marinas; 71394, Fitness and Recreational Sports Centers; 71395, Bowling Centers; and 71399, All Other Amusement and Recreation Industries. NAICS 7132, Amusement Facilities, is renumbered 7131 and retitled Amusement Parks and Arcades. Establishments providing coin-operated amusement devices are now in 71399, All Other Amusement and Recreation Industries. An industry group pointed out that the production processes of amusement parks and arcades is much different from that of those establishments only providing coin-operated amusement devices for use by amusement parks and arcades. NAICS industries in 7131 are 71311, Amusement and Theme Parks, and 71312, Amusement Arcades. NAICS 7133, Gambling Industries, is renumbered 7132. The industries in 7132 remain the same but are renumbered 71321, Casinos (except Hotel Casinos), and 71322, Other Gambling Industries.

*Accommodation and Food Services*—NAICS industry 72222, Refreshment Places, is deleted. Therefore, this NAICS industry will be shown as U.S. national industry 722213, Snack and Nonalcoholic Beverage Bars. Neither Mexico nor Canada could support this as a NAICS industry, but U.S. comments indicated that snack and nonalcoholic beverage bars are an important industry that should be recognized in the U.S.

*Other Services, Except Public Administration*—U.S. NAICS industry 811211, Transportation Equipment Repair and Maintenance, is combined with U.S. industry 811212, Other Industrial Machinery and Equipment Repair and Maintenance (renumbered and retitled 81131, Commercial and Industrial (except Automotive and Electronic) Machinery and Equipment Repair and Maintenance). There are very few establishments primarily engaged in repairing and maintaining transportation equipment (except automotive) since most of the repairs are done at the factory or by the establishment that owns and uses the equipment. Therefore, this industry is too small to recognize separately and is

combined with other industrial machinery and equipment repair and maintenance. The sequencing of NAICS industry groups 8112, Heavy and Industrial Machinery and Equipment Repair and Maintenance (retitled Commercial and Industrial (except Automotive and Electronic) Machinery and Equipment Repair and Maintenance), and 8113, Electronic and Precision Equipment Repair and Maintenance, is changed. NAICS 8112 now represents Electronic and Precision Equipment Repair and Maintenance and 8113 is Commercial and Industrial (except Automotive and Electronic) Machinery and Equipment Repair and Maintenance.

U.S. NAICS industries 813411, Civic and Social Organizations with Restaurants and Bars, and 813412, Civic and Social Organizations without Restaurants and Bars, are combined. These establishments are small and difficult to classify.

#### Auxiliaries

In the 1987 SIC, auxiliary units, defined as those units that primarily produce support services not intended for use outside the enterprise, are classified to industries based on the industry classification of the establishments they serve—not the auxiliaries' primary activity. However, establishments that produce goods for use by other units of the same enterprise are classified based on what they do, not whom they serve. The traditional treatment of auxiliary units implies that captive services producing establishments should be treated differently from captive goods producing units. For example, a computer services establishment of an automobile producer that performs services for its automobile assembly plants is classified in the automobile industry. However, if the automobile producer has a captive automotive hose and belting establishment, that establishment is classified into the rubber and plastic hose and belting industry, and not into the automobile assembly industry.

As production activities have become more diverse, complex, and integrated, the classification of auxiliary operations has taken on more and more qualifiers and it has become increasingly difficult to discern to which using industry the auxiliary establishment should be coded. In a multi-national conglomerate, a "central office" may serve a variety of establishments, each classified to a different industry. In addition, the type of personnel employed and the service performed are generic and can transfer from servicing a manufacturing

operation, to a retailer, to a government operation with little or no conversion costs. The geographic locations of central management units tend to be similar, usually appearing in or near large cities, and unrelated to the location of the activity serviced. As a result, for example, users of the U.S. economic censuses are typically surprised to find mining industry employment in Washington, D.C., which has no mining activity.

Another recent phenomenon that has complicated the treatment of auxiliaries is the practice of many auxiliaries of selling their services to establishments outside the enterprise after their intracompany responsibilities are met. For example, in the 1987 Economic Censuses, auxiliaries had \$64 billion of receipts from customers outside the parent company. By 1992, that amount had grown to \$141 billion, making these support establishments one of the fastest growing services providers in the economy. And yet, these dollars are not being shown in most industry series.

There are also inconsistencies in industry data published by the Bureau of Labor Statistics (BLS) and the Census Bureau, much of which is due to the treatment of auxiliaries. The BLS publishes wage and employment information by 1987 SIC for all industries, excluding agriculture and public administration. These data include industry statistics for both operating and auxiliary establishments classified to a 4-digit industry. The Census Bureau, on the other hand, which publishes receipts and expenditures information by 1987 SIC for industries excluding agricultural services, railroads, and public administration does not always include auxiliary establishments. In addition, Census does not classify auxiliaries down to the 4-digit industry level.

As a result of the difficulties in classifying auxiliaries, substantial differences exist in BLS and Census data. For example, in manufacturing, Census reports show more than a half million more workers in auxiliaries than does BLS. For Finance, Insurance, and Real Estate, and Services, on the other hand, BLS counts of auxiliary employment exceeds Census'.

These same differences and more exist in the treatment of auxiliaries among the three countries. A more complete explanation of the treatment of auxiliaries in the three countries and the problems created in industrial statistics by the past treatment of auxiliaries is contained in a paper "The Treatment of Auxiliary Establishments in Industry Classification Systems," by Paula Young and Jack Triplett of the Bureau of

Economic Analysis. A copy of that paper can be obtained by calling (202) 606-9615 or through the Internet (please see the Electronic Availability section, above).

Because of the many problems and complexities in the treatment and coding of auxiliaries, it was necessary to develop a principle about auxiliaries that would provide for more consistent treatment of these activities, both within the United States and among the three countries. The following statement, with respect to captive units (auxiliaries) was agreed upon by the statistical agencies of the three countries: "The three countries agree that, in accordance with the production-oriented conceptual framework for NAICS, those units that carry out captive activities for the enterprise to which they belong shall be classified to the extent feasible according to the NAICS code related to their own activity, as well as, if possible, to that of the enterprise they support."

This means that in the 1997 Economic Censuses auxiliary units will be included in the industry which describes the primary activity in which they are engaged. Warehouses that provide storage facilities for their own enterprise will be classified as a

warehouse, and not as an automobile assembly plant (if that is the primary unit they serve). For 1997, the Bureau of the Census will code these establishments to both their own activity and to the primary activity they serve so that links can be made to prior census data.

This change will result in significant shifts in employment data. In 1992, Census data showed over 1,000,000 auxiliary employees assigned to manufacturing and over 840,000 auxiliary employees assigned to retail trade. These employees will most likely move to either the Management of Companies and Enterprises sector; the Warehousing and Storage subsector; the Computer Systems Design and Related Services subsector; the Accounting, Tax Preparation, Bookkeeping and Payroll Services subsector; or some other services related subsector.

#### Time Series Continuity

The standard approach to preserving time series continuity after classification revisions is to create linkages where the series break. This is accomplished by producing the data series using both the old and new classifications for a given period of transition. With the dual classifications of data, the full impact of the revision can be assessed. Data

producers then may measure the reallocation of the data at aggregate industry levels and develop a concordance between the new and old series for that given point in time. The concordance creates a crosswalk between the old and new classification systems. Links between the 1987 U.S. SIC and NAICS (with U.S. national detail) are being planned by statistical agencies in the U.S.

#### ECPC Recommendations for the Hierarchical Structure, Industries, and Coding System for the 1997 NAICS

Table 1 below presents the ECPC final recommendations for the entire structure of the proposed classification system for the United States including both NAICS and non-NAICS industries. It shows the proposed 1997 hierarchy, including NAICS and U.S. national detail industries, and the proposed coding system in 1997 NAICS sequence and relates the 1997 NAICS to the 1987 SIC. All ECPC recommended changes to the structure based on public comment and discussions with INEGI and Statistics Canada are included in Tables 1 and 2. Table 2 is in 1987 SIC sequence and relates the 1987 SIC to the 1997 NAICS.

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## Proposed 1997 NAICS Structure, Including Relationship to 1987 SIC

Table 1 - 1997 NAICS Matched to 1987 SIC

1997 NAICS Code	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
11	Agriculture, Forestry, Fishing and Hunting			
111	Crop Production			
1111	Oilseed and Grain Farming			
11111	Soybean Farming	E	0116	Soybeans
11112	Oilseed (except Soybean) Farming	N	*0119	Cash Grains, NEC (oilseed, except soybean farming)
11113	Dry Pea and Bean Farming	N	*0119	Cash Grains, NEC (dry pea and bean farms)
11114	Wheat Farming	E	0111	Wheat
11115	Corn Farming	R	0115	Corn
11116	Rice Farming	E	*0119	Cash Grains, NEC (popcorn farming)
11119	Other Grain Farming		0112	Rice
11191	Oilseed and Grain Combination Farming	N	*0119	Cash Grains, NEC (oilseed and grain combination farms)
11199	All Other Grain Farming	R	*0119	Cash Grains, NEC (except popcorn, soybean, and dry pea and bean, and oilseed and grain combination farms)
112	Vegetable and Melon Farming			
1121	Vegetable and Melon Farming			
11211	Potato Farming	E	0134	Irish Potatoes
11219	Other Vegetable (except Potato) and Melon Farming	R	0161	Vegetables and Melons
			*0139	Field Crops Except Cash Grains (sweet potatoes and yams)
113	Fruit and Tree Nut Farming			
1131	Orange Groves	N	*0174	Citrus Fruits (orange groves and farms)
1132	Citrus (except Orange) Groves	R	*0174	Citrus Fruits (except, orange groves and farms)
1133	Noncitrus Fruit and Tree Nut Farming			
11331	Apple Orchards	N	*0175	Deciduous Tree Fruits (apple orchards and farms)
11332	Grape Vineyards	E	0172	Grapes
11333	Strawberry Farming	N	*0171	Berry Crops (strawberry farms)
11334	Berry (except Strawberry) Farming	R	*0171	Berry Crops ( except strawberry farms)
11335	Tree Nut Farming	E	0173	Tree Nuts
11336	Fruit and Tree Nut Combination Farming	N	*0179	Fruits and Tree Nuts, NEC (combination farms)
11339	Other Noncitrus Fruit Farming	R	*0175	Deciduous Tree Fruits (except apple orchards and farms)

1114	Greenhouse, Nursery and Floriculture Production				
11141	Food Crops Grown Under Cover				
111411	Mushroom Production				
111419	Other Food Crops Grown Under Cover				
11142	Nursery and Floriculture Production				
111421	Nursery and Tree Production				
111422	Floriculture Production				
1119	Other Crop Farming				
11191	Tobacco Farming				
11192	Cotton Farming				
11193	Sugarcane Farming				
11194	Hay Farming				
11199	All Other Crop Farming				
111991	Sugar Beet Farming				
111992	Peanut Farming				
111998	All Other Miscellaneous Crop Farming				
112	Animal Production				
1121	Cattle Ranching and Farming				
11211	Beef Cattle Ranching and Farming, including Feedlots				
112111	Beef Cattle Ranching and Farming				
112112	Cattle Feedlots				
11212	Dairy Cattle and Milk Production				
11213	Dual Purpose Cattle Ranching and Farming				
1122	Hog and Pig Farming				
11221	Hog and Pig Farming				
1123	Poultry and Egg Production				
11231	Chicken Egg Production				
11232	Broilers and Other Meat Type Chicken Production				
11233	Turkey Production				
11234	Poultry Hatcheries				
11239	Other Poultry Production				
1124	Sheep and Goat Farming				
11241	Sheep Farming				
*0179	Fruit and Tree Nuts, NEC (except combination farms)				
*0182	Food Crops Grown Under Cover (mushrooms, growing of)	N			
*0182	Food Crops Grown Under Cover (except mushroom, growing of)	R			
*0181	Ornamental Floriculture and Nursery Products (nursery farming)	N			
*0811	Timber Tracts (short rotation woody crops)				
*0181	Ornamental Floriculture and Nursery Products (floriculture farming)	N			
0132	Tobacco	E			
0131	Cotton	E			
*0133	Sugarcane and Sugar Beets (sugarcane farms)	N			
*0139	Field Crops, Except Cash Grains, NEC (hay farms)	N			
*0133	Sugarcane and Sugar Beets (sugar beet farms)	N			
*0139	Field Crops, Except Cash Grains, NEC (peanut farms)	N			
*0139	Field Crops, Except Cash Grains, NEC (except peanut, sweet potato, yam and hay farms)	R			
0191	General Farms, Primarily Crop				
*0831	Forest Products (maple sap, gathering of)				
*0919	Miscellaneous Marine Products (plant aquaculture)				
*2099	Food Preparations, NEC (reducing maple sap to maple syrup)				
0212	Beef Cattle, Except Feedlots (cattle farms)	R			
*0241	Dairy Farms (dairy heifer replacement farms)	E			
0211	Beef Cattle Feedlots (cattle farms)	R			
*0241	Dairy Farms	L			
0213	Hogs	E			
0252	Chicken Eggs	E			
0251	Broiler, Fryers, and Roaster Chickens	E			
0253	Turkey and Turkey Eggs	E			
0254	Poultry Hatcheries	E			
0259	Poultry and Eggs, NEC	E			
*0214	Sheep and Goats (sheep farms)	N			

1242	Goat Farming	N	*0214	Sheep and Goats (goat farms)
125	Animal Aquaculture			
1251	Animal Aquaculture	N	*0273	Animal Aquaculture (finfish farms)
12511	Finfish Farming and Fish Hatcheries		*0921	Fish Hatcheries and Preserves (finfish hatcheries)
12512	Shellfish Farming	N	*0273	Animal Aquaculture (shellfish farms)
12519	Other Animal Aquaculture		*0921	Fish Hatcheries and Preserves (shellfish hatcheries)
1129	Other Animal Production	R	*0273	Animal Aquaculture (except finfish and shellfish)
11291	Apiculture	N	*0279	Animal Specialties, NEC (apiculture)
11292	Horse and Other Equine Production	E	0272	Horse and Other Equine
11293	Fur-bearing Animal and Rabbit Production	E	0271	Fur-Bearing Animals and Rabbits
11299	All Other Animal Production	R	0219	General Livestock, Except Dairy and Poultry
			*0279	Animal Specialties, NEC (except apiculture)
			0291	General Farms, Primarily Livestock and Animal Specialties
113	Forestry and Logging			
1131	Timber Tract Operations			
11311	Timber Tract Operations	R	*0811	Timber Tracts (long term timber farms)
1132	Forest Nurseries and Gathering of Forest Products			
11321	Forest Nurseries and Gathering of Forest Products	E	*0831	Forest Nurseries and Gathering of Forest Products (forest products, except gathering of maple sap)
1133	Logging			
11331	Logging	E	2411	Logging
114	Fishing, Hunting and Trapping			
1141	Fishing			
11411	Fishing			
114111	Finfish Fishing	E	0912	Finfish
114112	Shellfish Fishing	E	0913	Shellfish
114119	Other Marine Fishing	R	*0919	Miscellaneous Marine Products (except plant aquaculture)
1142	Hunting and Trapping			
11421	Hunting and Trapping	E	0971	Hunting and Trapping, and Game Propagation
115	Support Activities for Agriculture and Forestry			
1151	Support Activities for Crop Production			
11511	Support Activities for Crop Production			
115111	Cotton Ginning	E	0724	Cotton Ginning
115112	Soil Preparation, Planting, and Cultivating	R	0711	Soil Preparation Services
			*0721	Crop Planting, Cultivating, and Protecting (other)
115113	Crop Harvesting, Primarily by Machine	E	0722	Crop Harvesting, Primarily by Machine

115114	Postharvest Crop Activities (except Cotton Ginning)	E	0723	Crop Preparation Services For Market, Except Cotton Ginning
115115	Farm Labor Contractors and Crew Leaders	E	0761	Farm Labor Contractors and Crew Leaders
115116	Farm Management Services	E	0762	Farm Management Services
1152	Support Activities for Animal Production	N	*0751	Livestock Services, Except Veterinary (except custom slaughtering)
11521	Support Activities for Animal Production		*0752	Animal Specialty Services, Except Veterinary (horses and equines services and animal production breeding)
			*7699	Repair Services, NEC (farriers)
1153	Support Activities for Forestry	R	*0851	Forestry Services (except for ariel forest fire fighting when combined with a variety of aircraft-based services)
11531	Support Activities for Forestry			
21	Mining			
211	Oil and Gas Extraction			
2111	Oil and Gas Extraction			
21111	Oil and Gas Extraction			
211111	Crude Petroleum and Natural Gas Extraction	E	1311	Crude Petroleum and Natural Gas
211112	Natural Gas Liquid Extraction	E	1321	Natural Gas Liquids
212	Mining (except Oil and Gas)			
2121	Coal Mining			
21211	Coal Mining			
212111	Bituminous Coal and Lignite Surface Mining	E	1221	Bituminous Coal and Lignite Surface Mining
212112	Bituminous Coal Underground Mining	E	1222	Bituminous Coal Underground Mining
212113	Anthracite Mining	E	1231	Anthracite Mining
2122	Metal Ore Mining			
21221	Iron Mining	E	1011	Iron Ores
21222	Gold and Silver Mining			
212221	Gold Mining	E	1041	Gold Ores
212222	Silver Mining	E	1044	Silver Ores
21223	Copper, Nickel, Lead and Zinc Mining			
212231	Lead and Zinc Mining	E	1031	Lead and Zinc Ores
212234	Copper and Nickel Mining	R	1021	Copper Ores
			*1061	Ferrously Ores, Except Vanadium (nickel)
21229	Other Metal Ore Mining			
212291	Uranium-Radium-Vanadium Ore Mining	E	1094	Uranium-Radium-Vanadium Ores
212299	All Other Metal Ore Mining	R	*1061	Ferrously Ores, Except Vanadium (other ferroalloys except nickel)
			1099	Miscellaneous Metal Ores, NEC
2123	Non-Metallic Mineral Mining and Quarrying			
21231	Stone Mining and Quarrying			
212311	Dimension Stone Mining and Quarrying	E	1411	Dimension Stone

212312	Crushed and Broken Limestone Mining and Quarrying	E	1422	Crushed and Broken Limestone
212313	Crushed and Broken Granite Mining and Quarrying	E	1423	Crushed and Broken Granite
212319	Other Crushed and Broken Stone Mining and Quarrying	R	1429	Crushed and Broken Stone, NEC
			*1499	Miscellaneous Nonmetallic Minerals, Except Fuels (bituminous limestone and bituminous sandstone)
21232	Sand, Gravel, Clay, and Ceramic and Refractory Minerals Mining and Quarrying			
212321	Construction Sand and Gravel Mining	E	1442	Construction Sand and Gravel
212322	Industrial Sand Mining	E	1446	Industrial Sand
212324	Kaolin and Ball Clay Mining	E	1455	Kaolin and Ball Clay
212325	Clay and Ceramic and Refractory Minerals Mining	E	1459	Clay, Ceramic, and Refractory Minerals, NEC
21239	Other Non-Metallic Mineral Mining and Quarrying			
212391	Polash, Soda, and Borate Mineral Mining	E	1474	Polash, Soda, and Borate Minerals
212392	Phosphate Rock Mining	E	1475	Phosphate Rock
212393	Other Chemical and Fertilizer Mineral Mining	E	1479	Chemical and Fertilizer Mineral Mining, NEC
212399	All Other Non-Metallic Mineral Mining	R	*1499	Miscellaneous Nonmetallic Minerals, Except Fuels (except bituminous limestone and bituminous sandstone)
213	Support Activities for Mining			
2131	Support Activities for Mining			
21311	Support Activities for Mining			
213111	Drilling Oil and Gas Wells	E	1381	Drilling Oil and Gas Wells
213112	Support Activities for Oil and Gas Field Exploration	R	*1382	Oil and Gas Field Exploration Services (except geophysical mapping and surveying and aerial geophysical exploration combined with a variety of aircraft-based services)
213113	Other Oil and Gas Field Support Activities	E	1389	Oil and Gas Field Services, NEC
213114	Support Activities for Coal Mining	E	1241	Coal Mining Services
213115	Support Activities for Metal Mining	R	*1081	Metal Mining Services (except geophysical surveying)
213116	Support Activities for Non-Metallic Minerals (except Fuels)	E	*1481	Nonmetallic Minerals Services, Except Fuels (except geophysical surveying)
22	Utilities			
221	Utilities			
2211	Electric Power Generation, Transmission and Distribution			
22111	Electric Power Generation			
221111	Hydroelectric Power Generation	N	*4911	Electric Services (hydroelectric power generation)
			*4931	Electric and Other Services Combined (hydroelectric power generation)
			*4939	Combination Utilities, NEC (hydroelectric power generation)
			*4911	Electric Services (fossil fuel power generation)
			*4931	Electric and Other Services Combined (fossil fuel power generation)
221112	Fossil Fuel Electric Power Generation	N		

221113	Nuclear Electric Power Generation	N	*4939 Combination Utilities, NEC (fossil fuel power generation) *4911 Electric Services (nuclear electric power generation) *4931 Electric and Other Services Combined (nuclear power generation) *4939 Combination Utilities, NEC (nuclear power generation) *4911 Electric Services (other electric power generation) *4931 Electric and Other Services Combined (other electric power generation)
221119	Other Electric Power Generation	N	*4939 Combination Utilities, NEC (other electric power generation)
22112	Electric Power Transmission, Control and Distribution	N	*4911 Electric Services (electric power transmission and control) *4931 Electric and Other Services Combined (electric power transmission and control)
221122	Electric Power Distribution	N	*4939 Combination Utilities, NEC (electric power transmission and control) *4911 Electric Services (electric power distribution) *4931 Electric and Other Services Combined (electric power distribution) *4939 Combination Utilities, NEC (electric power distribution)
2212	Natural Gas Distribution	R	*4923 Natural Gas Transmission and Distribution (distribution) 4924 Natural Gas Distribution
22121	Natural Gas Distribution		4925 Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution (natural gas distribution)
2213	Water, Sewage and Other Systems	R	*4931 Electronic and Other Services Combined (natural gas distribution) 4932 Gas and Other Services Combined (natural gas distribution) *4939 Combination Utilities, NEC (natural gas distribution)
22131	Water Supply and Irrigation Systems		4941 Water Supply 4971 Irrigation Systems
22132	Sewage Treatment Facilities	E	4952 Sewerage Systems
22133	Steam and Air-Conditioning Supply	E	4961 Steam and Air-Conditioning Supply
23	Construction		
233	Building, Developing and General Contracting	E	6552 Land Subdividers and Developers, Except Cemeteries
2331	Land Subdivision and Land Development	R	1521 General contractors-Single-Family Houses
23311	Land Subdivision and Land Development		*1531 Operative Builders (single-family housing construction)
2332	Residential Building Construction	R	*1522 General Contractors-Residential Building, Other Than Single-Family (except hotel and motel construction)
23321	Single-Family Housing Construction		*1531 Operative Builders (multi-family housing construction)
23322	Multi-Family Housing Construction		
2333	Nonresidential Building Construction		

23331	Manufacturing and Light Industrial Building Construction	R	*1531	Operative Builders (manufacturing and light industrial building construction)
			*1541	General Contractors-Industrial Buildings and Warehouses (except warehouse construction)
23332	Commercial and Institutional Building Construction	R	*1522	General Contractors-Residential Building Other than Single-Family (hotel and motel construction)
			*1531	Operative Builders (commercial and institutional building construction)
			*1541	General Contractors-Industrial Buildings and Warehouses (warehouse construction)
			1542	General Contractor-Nonresidential Buildings, Other than Industrial Buildings and Warehouses
234	Heavy Construction			
2341	Highway, Street, Bridge and Tunnel Construction			
23411	Highway and Street Construction	E	1611	Highway and Street Construction, Except Elevated Highways
23412	Bridge and Tunnel Construction	E	1622	Bridge, Tunnel, and Elevated Highway Construction
2349	Other Heavy Construction			
23491	Water, Sewer, and Pipeline Construction	N	*1623	Water, Sewer, Pipeline, and Communications and Power Line Construction (water and sewer mains and pipelines construction)
			*1623	Water, Sewer, Pipelines, and Communications and Power Line Construction (communications and power line construction)
23492	Power and Communication Transmission Line Construction	N	*1629	Heavy Construction, NEC (industrial nonbuilding structures construction)
23493	Industrial Nonbuilding Structure Construction	N		
23499	All Other Heavy Construction	R	*1629	Heavy Construction, NEC (except industrial nonbuilding structures construction)
			*7353	Construction Equipment Rental and Leasing (with operator)
235	Special Trade Contractors			
2351	Plumbing, Heating and Air-Conditioning Contractors			
23511	Plumbing, Heating and Air-Conditioning Contractors	E	1711	Plumbing, Heating and Air-Conditioning
2352	Painting and Wall Covering Contractors			
23521	Painting and Wall Covering Contractors	R	1721	Painting and Paper Hanging
			*1799	Special Trade Contractors, NEC (paint and wallpaper, stripping and wallpaper removal contractors)
2353	Electrical Contractors			
23531	Electrical Contractors	R	*1731	Electrical Work (except burglar and fire alarm installation)
2354	Masonry and Drywall Insulation, and Tile Contractors			
23541	Masonry and Stone Contractors	E	1741	Masonry, Stone Setting and Other Stone Work
23542	Drywall, Plastering, Acoustical and Insulation Contractors	R	1742	Plastering, Drywall, Acoustical, and Insulation Work
			*1743	Terrazzo, Tile, Marble and Mosaic work (fresco work)
			*1771	Concrete Work (stucco construction)
			*1743	Terrazzo, Tile, Marble, and Mosaic Work (except fresco work)
23543	Tile, Marble, Terrazzo and Mosaic Contractors	R		

2355	Carpentry and Floor Contractors				
23551	Carpentry Contractors	E	1751	Carpentry Work	
23552	Floor Laying and Other Floor Contractors	E	1752	Floor Laying and Other Floor Work, NEC	
2356	Roofing, Siding and Sheet Metal Contractors				
23561	Roofing, Siding and Sheet Metal Contractors	E	1761	Roofing, Siding, and Sheet Metal Work	
2357	Concrete Contractors				
23571	Concrete Contractors	R	*1771	Concrete Work (except stucco construction)	
2358	Water Well Drilling Contractors	E	1781	Water Well Drilling	
23581	Water Well Drilling Contractors				
2359	Other Special Trade Contractors				
23591	Structural Steel Erection Contractors	E	1791	Structural Steel Erection	
23592	Glass and Glazing Contractors	R	1793	Glass and Glazing Work	
			*1799	Specialty Trade Contractors, NEC (tinting glass work)	
23593	Excavation Contractors	E	1794	Excavation Work	
23594	Wrecking and Demolition Contractors	E	1795	Wrecking and Demolition Work	
23595	Building Equipment and Other Machinery Installation Contractors	E	1796	Installation of Erection of Building Equipment, NEC	
23599	All Other Special Trade Contractors	R	*1799	Special Trade Contractors, NEC (except paint and wallpaper stripping, wall paper removal contractors, and tinting glass work)	
31-33	Manufacturing				
311	Food Manufacturing				
3111	Animal Food Manufacturing				
31111	Animal Food Manufacturing				
311111	Dog and Cat Food Manufacturing	E	2047	Dog and Cat Food	
311119	Other Animal Food Manufacturing	R	*2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats (except slaughtering animals for pet food)	
3112	Grain and Oilseed Milling				
31121	Flour Milling and Malt Manufacturing				
311211	Flour Milling	R	*2034	Dehydrated Fruits, Vegetables and Soup Mixes (vegetable flour)	
311212	Rice Milling	E	2041	Flour and Other Grain Mill Products	
311213	Malt Manufacturing	E	2044	Rice Milling	
31122	Starch and Vegetable Fats and Oils Manufacturing	E	2083	Malt	
311221	Wet Corn Milling	E	2046	Wet Corn Milling	
311222	Soybean Processing	E	2075	Soybean Oil Mills	
311223	Other Oilseed Processing	N	2074	Cottonseed Oil Mills	
311225	Edible Fats and Oils Manufacturing	R	2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	
			*2077	Animal and Marine Fats and Oil, NEC (vegetable oil foots)	
			2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, NEC	
31123	Breakfast Cereal Manufacturing	R	*2043	Cereal Breakfast Foods (breakfast cereal)	

3113	Sugar and Confectionery Product Manufacturing			
31131	Sugar Manufacturing			
311311	Sugarcane Mills			
311312	Cane Sugar Refining	E		2061 Cane Sugar, Except Refining
311313	Beet Sugar Manufacturing	E		2062 Cane Sugar Refining
31132	Chocolate and Confectionery Manufacturing from Cacao Beans	E		2063 Beet Sugar
				2066 Chocolate and Cocoa Products
31133	Confectionery Manufacturing from Purchased Chocolate	N		*2064 Candy and Other Confectionery Products (chocolate confectionery)
31134	Non-Chocolate Confectionery Manufacturing	N		*2064 Candy and Other Confectionery Products (non-chocolate confectionery )
				2067 Chewing Gum
				*2099 Food Preparations, NEC (marshmallow creme)
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing			
31141	Frozen Food Manufacturing			
311411	Frozen Fruit, Juice and Vegetable Manufacturing	E		2037 Frozen Fruits, Fruit Juices, and Vegetables
311412	Frozen Specialty Food Manufacturing	E		2038 Frozen Specialties, NEC
31142	Fruit and Vegetable Canning, Pickling and Drying			
311421	Fruit and Vegetable Canning	R		2033 Canned Fruits, Vegetables, Preserves, Jams, and Jellies
				*2035 Pickled Fruits and Vegetables, Vegetable Sauces, and Seasonings and Salad Dressings (pickled fruits and vegetables)
311422	Specialty Canning	R		*2032 Canned Specialties (except canned puddings)
311423	Dried and Dehydrated Food Manufacturing	R		*2034 Dried and Dehydrated Fruits, Vegetables and Soup Mixes (except vegetable flour)
				*2099 Food Preparation, NEC (bouillon)
3115	Dairy Product Manufacturing			
31151	Dairy Product (except Frozen) Manufacturing			
311511	Fluid Milk Manufacturing	E		2026 Fluid Milk
311512	Creamery Butter Manufacturing	E		2021 Creamery Butter
311513	Cheese Manufacturing	E		2022 Natural, Processed, and Imitation Cheese
311514	Dry, Condensed, and Evaporated Milk Manufacturing	E		2023 Dry, Condensed and Evaporated Dairy Products
31152	Ice Cream and Frozen Dessert Manufacturing	E		2024 Ice Cream and Frozen Desserts
3116	Meat Product Manufacturing			
31161	Animal Slaughtering and Processing			
311611	Animal (except Poultry) Slaughtering	R		*0751 Livestock Services, Except Veterinary (custom slaughtering)
				2011 Meat Packing Plants
				*2048 Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats (animal slaughtering for pet food)
311612	Meat Processed From Carcasses	R		*2013 Sausages and Other Prepared Meats (meat processing)
				*5147 Meat and Meat Products (boxed beef)
311613	Rendering and Meat By-product Processing	N		*2013 Sausage and Other Prepared Meats (lard)

311615	Poultry Processing	R	*2077	Animal and Marine Fats and Oils (animal fats and oils)
3117	Seafood Product Preparation and Packaging		*2015	Poultry Slaughtering and Processing (poultry processing)
31171	Seafood Product Preparation and Packaging			
311711	Seafood Canning	R	*2077	Animal and Marine Fats and Oils (canned marine fats and oils)
			2091	Canned and Cured Fish and Seafood
311712	Fresh and Frozen Seafood Processing	R	*2077	Animal and Marine Fats and Oils (fresh and frozen marine fats and oils)
			2092	Prepared Fresh or Frozen Fish and Seafood
3118	Bakeries and Tortilla Manufacturing			
31181	Bread and Bakery Product Manufacturing			
311811	Retail Bakeries	N	*5461	Retail Bakeries (bread, cake and related products baked and sold on premise)
311812	Commercial Bakeries	R	2051	Bread and Other Bakery Products, Except Cookies and Crackers
311813	Frozen Bakery Product Manufacturing	E	*2052	Cookies and Crackers (unleavened bread)
31182	Cookie, Cracker, and Pasta Manufacturing		2053	Frozen Bakery Products, Except Bread
311821	Cookie and Cracker Manufacturing	R	*2052	Cookies and Crackers (except unleavened bread and pretzels)
311822	Flour Mixes and Dough Manufacturing from Purchased Flour	E	2045	Prepared Flour Mixes and Doughs
311823	Pasta Manufacturing	E	2098	Macaroni, Spaghetti, Vermicelli and Noodles
31183	Tortilla Manufacturing	N	*2099	Food Preparations, NEC (tortillas)
3119	Other Food Manufacturing			
31191	Snack Food Manufacturing			
311911	Roasted Nuts and Peanut Butter Manufacturing	R	2068	Salted and Roasted Nuts and Seeds
			*2099	Food Preparations, NEC (peanut butter)
311919	Other Snack Food Manufacturing	R	*2052	Cookies and Crackers (pretzels)
			2096	Potato Chips, Corn Chips, and Similar Snacks
31192	Coffee and Tea Manufacturing	N	*2043	Cereal Breakfast Foods (coffee substitute)
			*2095	Roasted Coffee (roasted coffee)
			*2099	Food Preparations, NEC (tea)
31193	Flavoring Syrup and Concentrate Manufacturing	R	*2087	Flavoring Extracts and Flavoring Syrups (flavoring syrup and concentrate)
31194	Seasoning and Dressing Manufacturing			
311941	Mayonnaise, Dressing and Other Prepared Sauce Manufacturing	N	*2035	Pickled Fruits and Vegetables, Vegetable Seasonings, and Sauces and Salad Dressings (sauces and salad dressing)
			*2099	Food Preparations, NEC (vinegar)
311942	Spice and Extract Manufacturing	N	*2087	Flavoring Extracts and Flavoring Syrups (flavoring extracts)
			*2095	Roasted Coffee (coffee extracts)
			*2099	Food Preparations, NEC (spices, dip mix, salad dressing mix, and seasoning mix)

31199	All Other Food Manufacturing				*2899	Chemical Preparations, NEC (table salt)
311991	Perishable Prepared Food Manufacturing		N		*2099	Food Preparations, NEC (perishable prepared food)
311999	All Other Miscellaneous Food Manufacturing		R		*2015	Poultry Slaughtering and Processing (egg processing)
					*2032	Canned Specialties (canned puddings)
					*2087	Flavoring Extracts and Flavoring Syrups (powered drink mix)
					*2099	Food Preparations, NEC (except bouillon, marshmallow creme, spices, extracts, peanut butter, perishable prepared foods, tortillas, tea, spices, dip mix, salad dressing mix, seasoning mix, and vinegar)
312	Beverage and Tobacco Product Manufacturing					
3121	Beverage Manufacturing					
31211	Soft Drink and Ice Manufacturing					
312111	Soft Drink Manufacturing		R		*2086	Bottled and Canned Soft Drinks and Carbonated Water (except bottled water)
312112	Bottled Water Manufacturing		N		*2086	Bottled and Canned Soft Drinks and Carbonated Water (bottled water)
312113	Ice Manufacturing		E		2097	Manufactured Ice
31212	Breweries		E		2082	Malt Beverages
31213	Wineries		E		2084	Wines, Brandy, and Brandy Spirits
31214	Distilleries		E		2085	Distilled and Blended Liquors
3122	Tobacco Manufacturing					
31221	Tobacco Stemming and Redrying		R		*2141	Tobacco Stemming and Redrying (redrying and stemming)
31222	Tobacco Product Manufacturing					
312221	Cigarette Manufacturing		E		2111	Cigarettes
312229	Other Tobacco Product Manufacturing		N		2121	Cigars
					2131	Chewing and Smoking Tobacco and Snuff
					*2141	Tobacco Stemming and Redrying (reconstituted tobacco)
313	Textile Mills					
3131	Fiber, Yarn, and Thread Mills					
31311	Fiber, Yarn, and Thread Mills					
313111	Yarn Spinning Mills		R		2281	Yarn Spinning Mills
					*2299	Textile Goods, NEC (yarn of flax, hemp, jute, and ramie)
313112	Yarn Texturing, Throwing and Twisting Mills		R		*2282	Yarn Texturing, Throwing, Winding Mills (except spooling purchased yarns)
313113	Thread Mills		R		*2284	Thread Mills (except finishing)
					*2299	Textile Goods, NEC (thread of hemp, linen, and ramie)
3132	Fabric Mills					
31321	Broadwoven Fabric Mills		N		2211	Broadwoven Fabric Mills, Cotton
					2221	Broadwoven Fabric Mills, Manmade Fiber and Silk

31322	Narrow Fabric Mills and Schiffli Machine Embroidery				*2231	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)(except wool finishing)
313221	Narrow Fabric Mills		R		*2299	Textile Goods, NEC (broadwoven fabrics of jute, linen, hemp, and ramie)
					2241	Narrow Fabric and Other Smallware Mills: Cotton, Wool, Silk and Manmade Fiber
					*2299	Textile Goods, NEC (narrow woven fabric of jute, linen, hemp, and ramie)
313222	Schiffli Machine Embroidery		E		2397	Schiffli Machine Embroideries
31323	Nonwoven Fabric Mills		R		2297	Nonwoven Fabrics
					*2299	Textile Goods, NEC (nonwoven felt)
31324	Knit Fabric Mills				*2257	Wet Knit Fabric Mills (except finishing)
313241	Wet Knit Fabric Mills		R		*2259	Knitting Mills NEC (finished articles of wet knit fabric)
					*2258	Lace and Warp Knit Fabric Mills (except finishing)
313249	Other Knit Fabric and Lace Mills		R		*2259	Knitting Mills NEC (finished articles of warp knit fabric)
3133	Textile and Fabric Finishing and Fabric Coating Mills				*2231	Broadwoven Fabric Mills, Wool (wool broadwoven fabric finishing)
31331	Textile and Fabric Finishing Mills		N		2261	Finishers of Broadwoven Fabrics of Cotton
313311	Broadwoven Fabric Finishing Mills				2262	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk
					*2269	Finishers of Textiles, NEC (broadwoven fabric finishing)
					*5131	Piece Goods and Notions (broadwoven converters)
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills		N		*2231	Broadwoven Fabric Mills, Wool (wool finishing except broadwoven fabric)
					*2257	Wet Knit Fabric Mills (finishing)
					*2258	Lace and Warp Knit Fabric Mills (finishing)
					*2269	Finishers of Textiles, NEC (except broadwoven fabric finishing)
					*2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills (spooling purchased yarn)
					*2284	Thread Mills (thread finishing)
					*2299	Textile Goods, NEC (finishing hard fiber thread and yarn)
					*5131	Piece Goods and Notions (converters, except broadwoven)
31332	Fabric Coating Mills		R		2295	Coated Fabrics, Not Rubberized
					*3069	Fabricated Rubber Products, NEC (rubberized fabric)

314	Textile Product Mills			
3141	Textile Furnishings Mills			
31411	Carpet and Rug Mills	E	2273	Carpets and Rugs
31412	Curtain and Linen Mills			
314121	Curtain and Drapery Mills	R	2391	Curtains and Draperies
			*5714	Drapery, Curtain, and Upholstery Stores (custom drapes)
314129	Other Household Textile Product Mills	R	*2392	Housefurnishings, Except Curtains and Draperies (except mops and bags)
3149	Other Textile Product Mills			
31491	Textile Bag and Canvas Mills			
314911	Textile Bag Mills	R	*2392	Housefurnishings, Except Curtains and Draperies (blanket, laundry, and wardrobe bags)
			2393	Textile Bags
			2394	Canvas and Related Products
314912	Canvas and Related Product Mills			
31499	All Other Textile Product Mills	E		
314991	Rope, Cordage and Twine Mills	E	2298	Cordage and Twine
314992	Tire Cord and Tire Fabric Mills	E	2296	Tire Cord and Fabrics
314999	All Other Miscellaneous Textile Product Mills	R	*2299	Textile Goods, NEC (other textile products)
			*2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (except apparel contractors)
			*2396	Automotive Trimmings, Apparel Findings, and Related Products (textile products except automotive and apparel trim and printing on apparel)
			*2399	Fabricated Textile Products, NEC (except apparel, automotive seat belts, and seat and tire covers)
315	Apparel Manufacturing			
3151	Apparel Knitting Mills			
31511	Hosiery and Sock Mills			
315111	Sheer Hosiery Mills	R	2251	Women's Full-Length and Knee-Length Hosiery, Except socks
			*2252	Hosiery, NEC (girls' hosiery)
			*2252	Hosiery, NEC (socks)
315119	Other Hosiery and Sock Mills			
31519	Other Apparel Knitting Mills	R		
315191	Outerwear Knitting Mills	R	2253	Knit Outerwear Mills
			*2259	Knitting Mills, NEC (gloves and mittens)
			2254	Knit Underwear and Nightwear Mills
315192	Underwear and Nightwear Knitting Mills	R	*2259	Knitting Mills, NEC (girdles)

3152	Cut and Sew Apparel Manufacturing	
31521	Cut and Sew Apparel Contractors	
315211	Men's and Boys' Cut and Sew Apparel Contractors	
		<ul style="list-style-type: none"> <li>*2311 Men's and Boys' Suits, Coats, and Overcoats (contractors)</li> <li>*2321 Men's and Boys' Shirts, Except Work Shirts (contractors)</li> <li>*2322 Men's and Boys' Underwear and Nightwear (contractors)</li> <li>*2325 Men's and Boys' Trousers and Slacks (contractors)</li> <li>*2326 Men's and Boys' Work Clothing (contractors)</li> <li>*2329 Men's and Boys' Clothing, NEC (contractors)</li> <li>*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (boys' contractors)</li> <li>*2361 Girls', Children's, and Infants' Dresses, Blouses and Shirts (boys' contractors)</li> <li>*2369 Girls', Children's, and Infants' Outerwear, NEC (boys' contractors)</li> <li>*2384 Robes and Dressing Gowns (men's and boys' contractors)</li> <li>*2385 Waterproof Outerwear (men's and boys' contractors)</li> <li>*2389 Apparel and Accessories, NEC (contractors)</li> <li>*2395 Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (men's and boy's apparel contractors)</li> <li>*2331 Women's, Misses', and Juniors' Blouses and Shirts (contractors)</li> <li>*2335 Women's, Misses' and Juniors' Dresses (contractors)</li> <li>*2337 Women's, Misses', and Juniors' Suits, Skirts, and Coats (contractors)</li> <li>*2339 Women's, Misses', and Juniors' Outerwear, NEC (contractors)</li> <li>*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (contractors)</li> <li>*2342 Brassieres, Girdles, and Allied Garments (contractors)</li> <li>*2361 Girls', Children's, and Infants' Dresses, Blouses, and Shirts (girls' contractors)</li> <li>*2369 Girls', Children's, and Infants' Outerwear, NEC (girls' contractors)</li> <li>*2384 Robes and Dressing Gowns (women's and girls' contractors)</li> </ul>
315212	Women's and Girls' Cut and Sew Apparel Contractors	N

31522 315221	Men's and Boys' Cut and Sew Apparel Manufacturing Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing	R	*2385 Waterproof Outerwear (women's and girls' contractors)
			*2389 Apparel and Accessories, NEC (contractors)
315222	Men's and Boys' Cut and Sew Suit, Coat and Overcoat Manufacturing	R	*2395 Pleating, Decorative and Novelty Stitching, and Tucking for the Trade (women's and girls' apparel contractors)
			*2322 Men's and Boys' Underwear and Nightwear (except contractors)
315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing	R	*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (boys' except contractors)
			*2369 Girls', Children's, and Infants' Outerwear, NEC (boys' robes except contractors)
315224	Men's and Boys' Cut and Sew Trouser, Slack and Jean Manufacturing	R	*2384 Robes and Dressing Gowns (men's except contractors)
			*2311 Men's and Boys' Suits, Coats, and Overcoats (except contractors)
315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing	R	*2369 Girls', Children's, and Infants' Outerwear, NEC (boys' suits and coats except contractors)
			*2385 Waterproof Outerwear (men's and boys' raincoats except contractors)
315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing	R	*2321 Men's and Boys' Shirts, Except Work Shirts (except contractors)
			*2361 Girls', Children's, and Infants' Dresses, Blouses, and Shirts (boys' shirts except contractors)
315231	Women's and Girls' Cut and Sew Apparel Manufacturing Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing	R	*2325 Men's and Boys' Trousers and Slacks (except contractors)
			*2369 Girls', Children's, and Infants' Outerwear, NEC (boys' trousers, slacks, and jeans except contractors)
315233	Women's and Girls' Cut and Sew Apparel Manufacturing Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing	R	*2326 Men's and Boys' Work Clothing (except contractors)
			*2329 Men's and Boys' Clothing, NEC (men's and boys' other outerwear except contractors)
315234	Women's and Girls' Cut and Sew Apparel Manufacturing Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing	R	*2369 Girls', Children's, and Infants' Outerwear, NEC (boys' other outerwear except contractors)
			*2385 Waterproof Outerwear (except contractors)
315235	Women's and Girls' Cut and Sew Apparel Manufacturing Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing	R	*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (women and girls' except contractors)
			*2342 Brassieres, Girdles, and Allied Garments (except contractors)
315236	Women's and Girls' Cut and Sew Apparel Manufacturing Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing	R	*2369 Girls', Children's, and Infants' Outerwear, NEC (girls' robes except contractors)
			*2384 Robes and Dressing Gowns (women's except contractors)

315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing	R	*2389 Apparel and Accessories, NEC (garters and garter belts) *2331 Women's, Misses', and Juniors' Blouses and Shirts (except contractors) *2361 Girls', Children's, and Infants' Dresses, Blouses and Shirts (girls' blouses and shirts except contractors) *2335 Women's, Misses', and Juniors' Dresses (except contractors) *2361 Girls', Children's, and Infants' Dresses, Blouses and Shirts (girls' dresses except contractors) *2337 Women's, Misses', and Juniors' Suits, Skirts, and Coats (except contractors) *2369 Girls', Children's, and Infants' Outerwear, NEC (girls' suits, coats, jackets, and skirts except contractors) *2385 Waterproof Outerwear (women's and girls' raincoats except contractors) *2339 Women's, Misses', and Juniors' Outerwear, NEC (except contractors) *2369 Girls', Children's, and Infants' Outerwear, NEC (girls' except contractors) *2385 Waterproof Outerwear (other women's and girls' outerwear except contractors)
315233	Women's and Girls' Cut and Sew Dress Manufacturing	R	
315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturing	R	
315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing	R	
31529 315291	Other Cut and Sew Apparel Manufacturing Infants' Cut and Sew Apparel Manufacturing	R	*2341 Women's, Misses', Children's, and Infants' Underwear and Nightwear (infants' except contractors) *2361 Girls', Children's, and Infants' Dresses, Blouses, and Shirts (infants' except contractors) *2369 Girls', Children's, and Infants' Outerwear, NEC (infants' except contractors)
315292	Fur and Leather Apparel Manufacturing	R	*2385 Waterproof Outerwear (infants' outerwear except contractors) 2371 Fur Goods 2386 Leather and Sheep-lined Clothing
315299	All Other Cut and Sew Apparel Manufacturing	R	*2329 Men's and Boys' Outerwear, NEC (athletic uniforms except contractors) *2339 Women's, Misses', and Juniors' Outerwear, NEC (athletic uniforms except contractors) *2389 Apparel and Accessories, NEC (academic and clerical outerwear, except contractors)
3159 31599 315991 315992	Apparel Accessories and Other Apparel Manufacturing Apparel Accessories and Other Apparel Manufacturing Hat, Cap and Millinery Manufacturing Glove and Mitten Manufacturing	E R	2353 Hats, Caps, and Millinery 2381 Dress and Work Gloves, Except Knit and All-Leather

315993	Men's and Boys' Neckwear Manufacturing	E	3151	Leather Gloves and Mittens
315999	Other Apparel Accessories and Other Apparel Manufacturing	N	2323	Men's and Boys' Neckwear
			*2339	Women's, Misses', and Juniors' Outerwear, NEC (scarves)
			*2385	Waterproof Outerwear (aprons, bibs, and other miscellaneous waterproof items)
			2387	Apparel Belts
			*2389	Apparel and Accessories, NEC (handkerchiefs, arm bands, etc.)
			*2396	Automotive Trimmings, Apparel Findings, and Related Products (apparel findings and trimming)
			*2399	Fabricated Textile Products, NEC (apparel and apparel accessories)
316	Leather and Allied Product Manufacturing			
3161	Leather and Hide Tanning and Finishing		3111	Leather Tanning and Finishing
31611	Leather and Hide Tanning and Finishing	R	*3999	Manufacturing Industries, NEC (fur dressing and finishing)
3162	Footwear Manufacturing			
31621	Footwear Manufacturing			
316211	Rubber and Plastics Footwear Manufacturing	E	3021	Rubber and Plastics Footwear
316212	House Slipper Manufacturing	E	3142	House Slippers
316213	Men's Footwear (except Athletic) Manufacturing	E	3143	Men's Footwear, Except Athletic
316214	Women's Footwear (except Athletic) Manufacturing	E	3144	Women's Footwear, Except Athletic
316219	Other Footwear Manufacturing	E	3149	Footwear Except Rubber, NEC
3169	Other Leather and Allied Product Manufacturing			
31699	Other Leather and Allied Product Manufacturing			
316991	Luggage Manufacturing	E	3161	Luggage
316992	Women's Handbag and Purse Manufacturing	E	3171	Women's Handbags and Purses
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing	E	3172	Personal Leather Goods, Except Women's Handbags and Purses
316999	All Other Leather Good Manufacturing	R	*3131	Boot and Shoe Cut Stock and Findings (except wood heels and metal buckles)
			3199	Leather Goods, NEC
321	Wood Product Manufacturing			
3211	Sawmills and Wood Preservation			
32111	Sawmills and Wood Preservation			
321113	Sawmills	R	*2421	Sawmills and Planing Mills, General
			2429	Special Product Sawmills, NEC
321114	Wood Preservation		2491	Wood Preserving
3212	Veneer, Plywood and Engineered Wood Product Manufacturing	E		

32121	Veneer, Plywood, and Engineered Wood Product Manufacturing			
321211	Hardwood Veneer and Plywood Manufacturing	E	2435	Hardwood Veneer and Plywood
321212	Softwood Veneer and Plywood Manufacturing	E	2436	Softwood Veneer and Plywood
321213	Engineered Wood Member (except Truss) Manufacturing	R	*2439	Structural Wood Members, NEC (except trusses)
321214	Truss Manufacturing	N	*2439	Structural Wood Members, NEC (trusses)
321219	Reconstituted Wood Product Manufacturing	E	2493	Reconstituted Wood Products
32191	Other Wood Product Manufacturing			
321911	Millwork			
321911	Wood Window and Door Manufacturing	N	*2431	Millwork (wood windows and doors)
321912	Hardwood Dimension Mills	R	*2426	Hardwood Dimension and Flooring Mills (except flooring)
321913	Softwood Cut Stock, Resawing Lumber, and Planing	N	*2421	Sawmills and Planing Mills, General (lumber manufacturing from purchased lumber, softwood cut stock, wood lathe, fence pickets, and planing mill products)
			*2429	Special Product Sawmills, NEC (stave manufacturing from purchased lumber)
321914	Other Millwork (including Flooring )		*2439	Structural Wood Members, NEC (lumber member manufacturing from purchased lumber)
32192	Wood Container and Pallet Manufacturing			
		R	*2426	Hardwood Dimension and Flooring Mills (hardwood flooring)
			*2421	Sawmills and Planing Mills, General (softwood flooring)
		N	*2431	Millwork (except wood doors and windows)
			2441	Nailed and Lock Corner Wood Boxes and Shook
			2448	Wood Pallets and Skids
			2449	Wood Containers, NEC
			*2499	Wood Products, NEC (wood tubs and vats, jewelry and cigar boxes)
32199	All Other Wood Product Manufacturing			
321991	Manufactured Home (Mobile Home) Manufacturing	E	2451	Mobile Homes
321992	Prefabricated Wood Building Manufacturing	E	2452	Prefabricated Wood Buildings and Components
321999	All Other Miscellaneous Wood Product Manufacturing	R	*2426	Hardwood Dimension and Flooring Mills (wood stock and turnings)
			*2499	Wood Products, NEC (other wood products)
			*3131	Boot and Shoe Cut Stock and Findings (wood heels)
			*3999	Manufacturing Industries, NEC (burnt wood articles and other wood products)
			*2421	Sawmills and Planing Mills, General (kiln drying)
			*2429	Special Product Sawmills, NEC (excelsior and cooperage headings)
322	Paper Manufacturing			
3221	Pulp, Paper and Paperboard Mills			
32211	Pulp Mills			
32212	Paper Mills	R	*2611	Pulp Mills (pulp producing mills only)

322121	Paper (except Newsprint) Mills	R	*2611 Pulp Mills (pulp mills producing paper)
322122	Newsprint Mills	N	*2621 Paper Mills (except newsprint mills)
32213	Paperboard Mills	E	*2621 Paper Mills (newsprint mills)
3222	Converted Paper Product Manufacturing		2631 Paperboard Mills
32221	Paperboard Container Manufacturing		
322211	Corrugated and Solid Fiber Box Manufacturing	E	2653 Corrugated and Solid Fiber Boxes
322212	Folding Paperboard Box Manufacturing	E	2657 Folding Paperboard Boxes, Including Sanitary
322213	Setup Paperboard Box Manufacturing	E	2652 Setup Paperboard Boxes
322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing	E	2655 Fiber Cans, Tubes, Drums, and Similar Products
322215	Non-Folding Sanitary Food Container Manufacturing	R	2656 Sanitary Food Containers, Except Folding
			*2679 Converted Paper and Paperboard Products, NEC (egg cartons and other containers from purchased paper)
32222	Paper Bag and Coated and Treated Paper Manufacturing		
322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing	R	*2671 Packaging Paper and Plastics Film, Coated and Laminated (single-web paper, paper multiweb laminated rolls and sheets for packaging uses)
322222	Coated and Laminated Paper Manufacturing	R	2672 Coated and Laminated Paper, NEC
			*2679 Converted Paper and Paperboard Products, NEC (wallpaper and gift wrap paper)
322223	Plastics, Foil, and Coated Paper Bag Manufacturing	R	*2673 Plastics, Foil, and Coated Paper Bags (coated or multiweb laminated bags)
322224	Uncoated Paper and Multiwall Bag Manufacturing	E	2674 Uncoated Paper and Multiwall Bags
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses	N	*3497 Metal Foil and Leaf (laminated aluminum foil rolls and sheets for flexible packaging uses)
32223	Stationery Product Manufacturing		
322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing	N	*2675 Die-Cut Paper and Paperboard and Cardboard (file folders, tabulating cards, and other paper and paperboard office supplies)
			*2679 Converted Paper and Paperboard Products, NEC (paper supplies for business machines and other paper office supplies)
322232	Envelope Manufacturing	E	2677 Envelopes
322233	Stationery, Tablet, and Related Product Manufacturing	E	2678 Stationery, Tablets, and Related Products
32229	Other Converted Paper Product Manufacturing		
322291	Sanitary Paper Product Manufacturing	E	2676 Sanitary Paper Products
322292	Surface-Coated Paperboard Manufacturing	N	*2675 Die-Cut Paper and Paperboard and Cardboard (pasted, lined, laminated, or surface-coated paperboard)
322298	All Other Converted Paper Product Manufacturing	R	*2675 Die-Cut Paper and Paperboard and Cardboard (die-cut paper and paperboard products, except office supplies)

323	Printing and Related Support Activities				*2679	Converted Paper and Paperboard Products, NEC ( other converted paper and paperboard products such as paper filters, crepe paper, and laminated and tiled wallboard)
3231	Printing and Related Support Activities					
32311	Printing					
323110	Commercial Lithographic Printing	R			*2752	Commercial Printing, Lithographic (except quick printing)
					*2771	Greeting Cards (lithographic printing of greeting cards)
					*2782	Blankbooks, Loose-leaf Binders and Devices (lithographic printing of checkbooks)
					*3999	Manufacturing Industries, NEC (lithographic printing of eyeglass frames for the trade)
323111	Commercial Gravure Printing	R			2754	Commercial Printing, Gravure
					*2771	Greeting Cards (gravure printing of greeting cards)
					*2782	Blankbooks, Loose-leaf Binders and Devices (gravure printing of checkbooks)
					*3999	Manufacturing Industries, NEC (gravure printing of eyeglass frames for the trade)
323112	Commercial Flexographic Printing	N			*2759	Commercial Printing, NEC (flexographic printing)
					*2771	Greeting Cards (flexographic printing of greeting cards)
					*2782	Blankbooks, Loose-leaf Binders and Devices (flexographic printing of checkbooks)
					*3999	Manufacturing Industries, NEC (flexographic printing of eyeglass frames for the trade)
323113	Commercial Screen Printing	N			*2396	Automotive Trimmings, Apparel Findings, and Related Products (printing and embossing on fabric articles)
					*2759	Commercial Printing, NEC (screen printing)
					*2771	Greeting Cards (screen printing of greeting cards)
					*2782	Blankbooks, Loose-leaf Binders and Devices (screen printing of checkbooks)
					*3999	Manufacturing Industries, NEC (screen printing of eyeglass frames for the trade)
323114	Quick Printing	N			*2752	Commercial Printing, Lithographic (quick printing)
					*2759	Commercial Printing, NEC (quick printing)
323115	Digital Printing	N			*2759	Commercial Printing, NEC (digital printing, except quick printing)
323116	Manifold Business Form Printing	E			2761	Manifold Business Forms
323117	Book Printing	E			2732	Book Printing

323118	Blankbook, Loose-leaf Binder and Device Manufacturing	R	*2782	Blankbooks, Loose-leaf Binders and Devices (except checkbooks)
323119	Other Commercial Printing	R	*2759	Commercial Printing, NEC (other commercial printing except quick printing)
			*2771	Greeting Cards (other printing of greeting cards)
			*2782	Blankbooks, Loose-leaf Binders and Devices (other printing of checkbooks)
			*3999	Manufacturing Industries, NEC (other printing of eyeglass frames for the trade)
32312	Support Activities for Printing			
323121	Tradebinding and Related Work	E	2789	Bookbinding and Related Work
323122	Prepress Services	R	2791	Typesetting
			2796	Platemaking and Related Services
324	Petroleum and Coal Products Manufacturing			
3241	Petroleum and Coal Products Manufacturing			
32411	Petroleum Refineries	E	2911	Petroleum Refining
32412	Asphalt Paving, Roofing and Saturated Material Manufacturing			
324121	Asphalt Paving Mixture and Block Manufacturing	E	2951	Asphalt Paving Mixtures and Blocks
324122	Asphalt Shingle and Coating Materials Manufacturing	E	2952	Asphalt Felts and Coatings
32419	Other Petroleum and Coal Products Manufacturing			
324191	Petroleum Lubricating Oil and Grease Manufacturing	E	2992	Lubricating Oils and Greases
324199	All Other Petroleum and Coal Products Manufacturing	R	2999	Products of Petroleum and Coal, NEC
			*3312	Blast Furnaces and Steel Mills (coke ovens)
325	Chemical Manufacturing			
3251	Basic Chemical Manufacturing	N	*2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments (aromatics)
32511	Petrochemical Manufacturing		*2869	Industrial Organic Chemicals, NEC (aliphatics)
		R	2813	Industrial Gases
32512	Industrial Gas Manufacturing		*2869	Industrial Organic Chemicals, NEC (fluorocarbon gases)
32513	Dye and Pigment Manufacturing			
325131	Inorganic Dye and Pigment Manufacturing	N	*2816	Inorganic Pigments (except bone and lamp black)
			*2819	Industrial Inorganic Chemicals, NEC (inorganic dyes)
325132	Organic Dye and Pigment Manufacturing	N	*2865	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments (organic dyes and pigments)
32518	Other Inorganic Chemical Manufacturing	E	2812	Alkalies and Chlorine
325181	Alkalies and Chlorine Manufacturing	R	*2816	Inorganic pigments (bone and lamp black)
325182	Carbon Black Manufacturing			

325188	All Other Inorganic Chemical Manufacturing	R	2895	Carbon Black
			*2819	Industrial Inorganic Chemicals, NEC (except activated carbon and charcoal, alumina, and inorganic industrial dyes)
			*2869	Industrial Organic Chemicals, NEC (carbon bisulfide)
32519	Other Organic Chemical Manufacturing	E	2861	Gum and Wood Chemicals
325191	Gum and Wood Chemical Manufacturing	R	*2865	Cyclic Organic Crudes and Intermediates and Organic Dyes and Pigments (except aromatics and organic dyes and pigments)
325192	Cyclic Crude and Intermediate Manufacturing	N	*2869	Industrial Organic Chemicals (ethyl alcohol)
325193	Ethyl Alcohol Manufacturing	R	*2869	Industrial Organic Chemicals, NEC (except aliphatics, carbon bisulfide, ethyl alcohol, fatty acid esters, and fluorocarbon gases)
325199	All Other Organic Chemical Manufacturing			
3252	Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing			
32521	Resin and Synthetic Rubber Manufacturing	E	2821	Plastics Materials, Synthetic and Resins, and Nonvulcanizable Elastomers
325211	Plastics Material and Resin Manufacturing	E	2822	Synthetic Rubber
325212	Synthetic Rubber Manufacturing			
32522	Artificial and Synthetic Fibers and Filaments Manufacturing			
325221	Cellulosic Manmade Fiber Manufacturing	E	2823	Cellulosic Manmade Fibers
325222	Noncellulosic Organic Fiber Manufacturing	E	2824	Manmade Organic Fibers, Except Cellulosic
3253	Pesticide, Fertilizer and Other Agricultural Chemical Manufacturing			
32531	Fertilizer Manufacturing			
325311	Nitrogenous Fertilizer Manufacturing	E	2873	Nitrogenous Fertilizers
325312	Phosphatic Fertilizer Manufacturing	E	2874	Phosphatic Fertilizers
325314	Fertilizer (Mixing Only) Manufacturing	E	2875	Fertilizers, Mixing Only
32532	Pesticide and Other Agricultural Chemical Manufacturing	E	2879	Pesticides and Agricultural Chemicals, NEC
3254	Pharmaceutical and Medicine Manufacturing			
32541	Pharmaceutical and Medicine Manufacturing	E	2833	Medicinal Chemicals and Botanicals Products
325411	Medicinal and Botanical Manufacturing	R	2834	Pharmaceutical Preparations
325412	Pharmaceutical Preparation Manufacturing		*2835	In-Vitro and In-Vivo Diagnostic Substances (except in-vitro diagnostic)
325413	In-Vitro Diagnostic Substance Manufacturing	N	*2835	In-Vitro and In-Vivo Diagnostic Substances (in-vitro diagnostic substances)
325414	Biological Product (except Diagnostic) Manufacturing	E	2836	Biological Products, Except Diagnostic Substance
3255	Paint, Coating, Adhesive, and Sealant Manufacturing			
32551	Paint and Coating Manufacturing	R	2851	Paints, Varnishes, Lacquers, Enamels and Allied Products
			*2899	Chemicals and Chemical Preparations, NEC (frit)
32552	Adhesive and Sealant Manufacturing	E	2891	Adhesives and Sealants

3256	Soap, Cleaning Compound and Toilet Preparation Manufacturing			
32561	Soap and Cleaning Compound Manufacturing			
325611	Soap and Other Detergent Manufacturing	R	2841	Soaps and Other Detergents, Except Specialty Cleaners
325612			*2844	Toilet Preparations (toothpaste)
325613	Polish and Other Sanitation Good Manufacturing Surface Active Agent Manufacturing	E	2842	Specialty Cleaning, Polishing, and Sanitary Preparations
32562	Toilet Preparation Manufacturing	E	2843	Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants
3259	Other Chemical Product Manufacturing	R	*2844	Perfumes, Cosmetics, and Other Toilet Preparations (except toothpaste)
32591	Printing Ink Manufacturing	E	2893	Printing Ink
32592	Explosives Manufacturing	E	2892	Explosives
32599	All Other Chemical Product Manufacturing			
325991	Custom Compounding of Purchased Resin	E	3087	Custom Compounding of Purchased Plastics Resin
325992	Photographic Film, Paper, Plate and Chemical Manufacturing	N	*3861	Photographic Equipment and Supplies (photographic films, paper, plates and chemicals)
325998	All Other Miscellaneous Chemical Product Manufacturing	R	*2819	Industrial Inorganic Chemicals, NEC (activated carbon and charcoal)
			*2869	Industrial Organic Chemicals, NEC (fatty acid esters)
			*2899	Chemicals and Chemical Preparations, NEC (except frit and table salt)
			*3952	Lead Pencils and Art Goods (drawing inks and india ink)
			*3999	Manufacturing Industries, NEC (matches)
326	Plastics and Rubber Products Manufacturing			
3261	Plastics Product Manufacturing			
32611	Unsupported Plastics Film, Sheet and Bag Manufacturing	N	*2673	Plastics, Foil, and Coated Paper Bags (plastics bags)
326111	Unsupported Plastics Bag Manufacturing	N	*2671	Packaging Paper and Plastics Film, Coated, and Laminated (plastics packaging film and sheet)
326112	Unsupported Plastics Packaging Film and Sheet Manufacturing	E	3081	Unsupported Plastics Film and Sheets
326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing			
32612	Plastics Pipe, Pipe Fitting, and Unsupported Profile Shape Manufacturing			
326121	Unsupported Plastics Profile Shape Manufacturing	R	3082	Unsupported Plastics Profile Shapes
326122	Plastics Pipe and Pipe Fitting Manufacturing	R	*3089	Plastics Product, NEC (plastics sausage casings)
			3084	Plastics Pipe
			*3089	Plastics Products, NEC (pipe fittings)
32613	Laminated Plastics Plate, Sheet and Shape Manufacturing	E	3083	Laminated Plastics Plate, Sheet and Profile Shapes
32614	Polystyrene Foam Product Manufacturing	N	*3086	Plastics Foam Products (polystyrene foam products)

32615	Urethane and Other Foam Product (except Polystyrene) Manufacturing	N	*3086	Plastics Foam Products (urethane foam products)
32616	Plastics Bottle Manufacturing	E	3085	Plastics Bottles
32619	Other Plastics Product Manufacturing	E	3088	Plastics Plumbing Fixtures
326191	Plastics Plumbing Fixture Manufacturing	R	*3069	Fabricated Rubber Products, NEC (rubber resilient floor coverings)
326192	Resilient Floor Covering Manufacturing		3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, NEC
326199	All Other Plastics Product Manufacturing	R	*3089	Plastics Products, NEC (except plastics pipe fittings and plastics sausage casings)
			*3999	Manufacturing Industries, NEC (plastics products such as combs, hair curlers, etc.)
3262	Rubber Product Manufacturing			
32621	Tire Manufacturing	E	3011	Tires and Inner Tubes
326211	Tire Manufacturing (except Retreading)	N	*7534	Tire Retreading and Repair Shops (rebuilding)
326212	Tire Retreading	E	3052	Rubber and Plastics Hose and Belting
32622	Rubber and Plastics Hoses and Belting Manufacturing			
32629	Other Rubber Product Manufacturing	E	3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods
326291	Rubber Product Manufacturing for Mechanical Use	R	*3069	Fabricated Rubber Products, NEC (except rubberized fabric and rubber resilient floor covering)
326299	All Other Rubber Product Manufacturing			
327	Nonmetallic Mineral Product Manufacturing			
3271	Clay Product and Refractory Manufacturing			
32711	Pottery, Ceramics, and Plumbing Fixture Manufacturing			
327111	Vitreous China Plumbing Fixture and China and Earthenware Fitting and Bathroom Accessories Manufacturing	E	3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories
327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing	N	3262	Vitreous China Table and Kitchen Articles
327113	Porcelain Electrical Supply Manufacturing		3263	Fine Earthenware (Whiteware) Table and Kitchen Articles
32712	Clay Building Material and Refractories Manufacturing	E	3269	Pottery Products, NEC
327121	Brick and Structural Clay Tile Manufacturing	E	3264	Porcelain Electrical Supplies
327122	Ceramic Wall and Floor Tile Manufacturing	E	3251	Brick and Structural Clay Tile
327123	Other Structural Clay Product Manufacturing	E	3253	Ceramic Wall and Floor Tile
327124	Clay Refractory Manufacturing	E	3259	Structural Clay Products, NEC
327125	Nonclay Refractory Manufacturing	E	3255	Clay Refractories
3272	Glass and Glass Product Manufacturing		3297	Nonclay Refractories
32721	Glass and Glass Product Manufacturing			
327211	Flat Glass Manufacturing	E	3211	Flat Glass

327212	Other Pressed and Blown Glass and Glassware Manufacturing	E	3229	Pressed and Blown Glass and Glassware, NEC
327213	Glass Container Manufacturing	E	3221	Glass Containers
327215	Glass Product Manufacturing Made of Purchased Glass	E	3231	Glass Products Made of Purchased Glass
3273	Cement and Concrete Product Manufacturing	E	3241	Cement, Hydraulic
32731	Hydraulic Cement Manufacturing	E	3273	Ready-Mixed Concrete
32732	Ready-Mix Concrete Manufacturing			
32733	Concrete Pipe, Brick and Block Manufacturing	E	3271	Concrete Block and Brick
327331	Concrete Block and Brick Manufacturing	N	*3272	Concrete Products, Except Block and Brick (concrete pipe)
327332	Concrete Pipe Manufacturing	N	*3272	Concrete Products, Except Block and Brick (concrete products, except dry mix concrete and pipe)
32739	Other Concrete Product Manufacturing			
3274	Lime, Gypsum and Gypsum Product Manufacturing	E	3274	Lime
32741	Lime Manufacturing		3275	Gypsum Products
32742	Gypsum and Gypsum Product Manufacturing	R	*3299	Nonmetallic Mineral Products, NEC (moldings, ornamental and architectural plaster work)
3279	Other Nonmetallic Mineral Product Manufacturing			
32791	Abrasive Product Manufacturing	R	*3291	Abrasive Products (except steel wool with or without soap)
32799	All Other Nonmetallic Mineral Product Manufacturing			
327991	Cut Stone and Stone Product Manufacturing	E	3281	Cut Stone and Stone Products
327992	Ground or Treated Mineral and Earth Manufacturing	E	3295	Minerals and Earths, Ground or Otherwise Treated
327993	Mineral Wool Manufacturing	E	3296	Mineral Wool
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing	R	*3272	Concrete Products, Except Block and Brick (dry mixture concrete)
			*3292	Asbestos Products (except brake pads and linings)
			*3299	Nonmetallic Mineral Products, NEC (except moldings, ornamental and architectural plaster work)
331	Primary Metal Manufacturing			
3311	Iron and Steel Mills and Ferroalloy Manufacturing			
33111	Iron and Steel Mills and Ferroalloy Manufacturing	N	*3312	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills (except coke ovens not integrated with steel mills)
331111	Iron and Steel Mills		*3399	Primary Metal Products, NEC (ferrous powder, paste, flakes, etc.)
		R	*3313	Electrometallurgical Products, Except Steel (ferroalloys)
331112	Electrometallurgical Ferroalloy Product Manufacturing			
3312	Steel Product Manufacturing from Purchased Steel	E	3317	Steel Pipe and Tubes
33121	Iron and Steel Pipes and Tubes Manufacturing from Purchased Steel			
33122	Rolling and Drawing of Purchased Steel			

331221	Cold-Rolled Steel Shape Manufacturing	E	3316	Cold-Rolled Steel Sheet, Strip and Bars
331222	Steel Wire Drawing	R	*3315	Steel Wire Drawing and Steel Nails and Spikes (steel wire drawing)
3313	Alumina and Aluminum Production and Processing			
33131	Alumina and Aluminum Production and Processing			
331311	Alumina Refining	N	*2819	Industrial Inorganic Chemicals, NEC (alumina)
331312	Primary Aluminum Production	E	3334	Primary Production of Aluminum
331314	Secondary Smelting and Alloying of Aluminum	N	*3341	Secondary Smelting and Refining of Nonferrous Metals (aluminum)
331315	Aluminum Sheet, Plate and Foil Manufacturing	E	*3399	Primary Metal Products, NEC (aluminum powder, paste, flakes, etc.)
331316	Aluminum Extruded Product Manufacturing	E	3353	Aluminum Sheet, Plate, and Foil
331319	Other Aluminum Rolling and Drawing	R	3354	Aluminum Extruded Products
			3355	Aluminum Rolling and Drawing, NEC
			*3357	Drawing and Insulating of Nonferrous Wire (aluminum wire drawing)
3314	Nonferrous Metal (except Aluminum) Production and Processing			
33141	Nonferrous Metal (except Aluminum) Smelting and Refining			
331411	Primary Smelting and Refining of Copper	E	3331	Primary Smelting and Refining of Copper
331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)	E	3339	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum
33142	Copper Rolling, Drawing, Extruding, and Alloying	E	3351	Rolling, Drawing, and Extruding of Copper
331421	Copper (except Wire) Rolling, Drawing and Extruding	N	*3357	Drawing and Insulating of Nonferrous Wire (copper wire drawing)
331422	Copper Wire Drawing			
331423	Secondary Smelting, Refining, and Alloying of Copper	R	*3341	Secondary Smelting and Refining of Nonferrous Metals (copper)
33149	Nonferrous Metals (except Copper and Aluminum)		*3399	Primary Metal Products, NEC (copper powders, flakes, paste, etc.)
331491	Rolling, Drawing, Extruding and Alloying	R	3356	Rolling, Drawing and Extruding of Nonferrous Metals, Except Copper and Aluminum
	Nonferrous Metal (except Copper and Aluminum)		*3357	Drawing and Insulating of Nonferrous Wire (wire drawing except copper or aluminum)
	Rolling, Drawing and Extruding			
331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum)	N	*3313	Electrometallurgical Products, Except Steel (except copper and aluminum)
			*3341	Secondary Smelting and Refining of Nonferrous Metals (except copper and aluminum)
			*3399	Primary Metal Products, NEC (except copper and aluminum)
3315	Foundries			
33151	Ferrous Metal Foundries			
331511	Iron Foundries	R	3321	Gray and Ductile Iron Foundries

331512	Steel Investment Foundries			3322	Malleable Iron Foundries
331513	Steel Foundries, (except Investment)		E	3324	Steel Investment Foundries
33152	Nonferrous Metal Foundries		E	3325	Steel Foundries, NEC
331521	Aluminum Die-Castings		E	3363	Aluminum Die-Castings
331522	Nonferrous (except Aluminum) Die-Castings		E	3364	Nonferrous Die-Castings, Except Aluminum
331524	Aluminum Foundries		E	3365	Aluminum Foundries
331525	Copper Foundries		E	3366	Copper Foundries
331528	Other Nonferrous Foundries		E	3369	Nonferrous Foundries, Except Aluminum and Copper
332	Fabricated Metal Product Manufacturing				
3321	Forging and Stamping				
33211	Forging and Stamping				
332111	Iron and Steel Forging		E	3462	Iron and Steel Forgings
332112	Nonferrous Forging		E	3463	Nonferrous Forgings
332114	Custom Roll Forming		N	*3449	Miscellaneous Structural Metal Work (custom roll forming)
332115	Crown and Closure Manufacturing		E	3466	Crowns and Closures
332116	Metal Stamping		N	*3469	Metal Stampings, NEC (except kitchen utensils, pots and pans for cooking and coins)
332117	Powder Metallurgy Part Manufacturing		N	*3499	Fabricated Metal Products, NEC (powder metallurgy)
3322	Cutlery and Hand Tool Manufacturing				
33221	Cutlery and Hand Tool Manufacturing			3421	Cutlery
332211	Cutlery and Flatware (except Precious) Manufacturing		N	*3914	Silverware, Plated Ware, and Stainless Steel Ware (cutlery and flatware except precious)
332212	Hand and Edge Tool Manufacturing		R	3423	Hand and Edge Tools, Except Machine Tools and Handsaws
				*3523	Farm Machinery and Equipment (hand hair clippers for animals)
				*3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment (nonpowered lawnmowers)
				*3545	Cutting Tools, Machine Tools Accessories, and Machinist Precision Measuring Devices (precision measuring devices)
				*3799	Transportation Equipment, NEC (wheelbarrows)
				*3999	Manufacturing Industries, NEC (tape measures)
332213	Saw Blade and Handsaw Manufacturing		E	3425	Saw Blades and Handsaws
332214	Kitchen Utensil, Pot and Pan Manufacturing		N	*3469	Metal Stampings, NEC (kitchen utensils, pots, and pans for cooking)
3323	Architectural and Structural Metals Manufacturing				
33231	Plate Work and Fabricated Structural Product Manufacturing				
332311	Prefabricated Metal Building and Component Manufacturing		E	3448	Prefabricated Metal Buildings and Components
332312	Fabricated Structural Metal Manufacturing		R	3441	Fabricated Structural Metal

332313	Plate Work Manufacturing	N	*3449	Miscellaneous Structural Metal Work (fabricated bar joists and concrete reinforcing bars)
33232	Ornamental and Architectural Metal Products Manufacturing		*3443	Fabricated Plate Work (Boiler Shops) (fabricated plate work and metal weldments)
332321	Metal Window and Door Manufacturing	R	3442	Metal Doors, Sash, Frames, Molding and Trim
332322	Sheet Metal Work Manufacturing	R	*3449	Miscellaneous Structural Metal Work (curtain wall)
332323	Ornamental and Architectural Metal Work Manufacturing	R	*3444	Sheet Metal Work (ducts, flumes, flooring, siding, dampers, etc.)
			3446	Architectural and Ornamental Metal Work
3324	Boiler, Tank, and Shipping Container Manufacturing		*3449	Miscellaneous Structural Metal Work (metal plaster bases)
33241	Power Boiler and Heat Exchanger Manufacturing	N	*3523	Farm Machinery and Equipment (corrals, stalls, and holding gates)
33242	Metal Tank (Heavy Gauge) Manufacturing		*3443	Fabricated Plate Work (Boiler Shops) (power boilers and heat exchangers)
33243	Metal Can, Box, and Other Metal Container (Light Gauge) Manufacturing	N	*3443	Fabricated Plate Work (Boiler Shops) (heavy gauge tanks)
332431	Metal Can Manufacturing	E	3411	Metal Cans
332439	Other Metal Container Manufacturing	R	3412	Metal Shipping Barrels, Drums, Kegs, and Pails
			*3429	Hardware, NEC (vacuum and insulated bottles, jugs, and chests)
			*3444	Sheet Metal Work (metal bins and vats)
			*3499	Fabricated Metal Products, NEC (metal boxes)
			*3537	Industrial Trucks, Tractors, Trailers, and Stackers (metal air cargo containers)
3325	Hardware Manufacturing			
33251	Hardware Manufacturing	R	*3429	Hardware, NEC (hardware, except hose nozzles, and vacuum and insulated bottles, jugs and chests)
			*3499	Fabricated Metal Products, NEC (safe and vault locks)
3326	Spring and Wire Product Manufacturing			
33261	Spring and Wire Product Manufacturing	E	3493	Steel Springs, Except Wire
332611	Steel Spring (except Wire) Manufacturing	R	*3495	Wire Springs (except watch and clock springs)
332612	Wire Spring Manufacturing	R	*3315	Steel Wiredrawing and Steel Nails and Spikes (nails, spikes, paper clips and wire not made in wiredrawing plants)
332618	Other Fabricated Wire Product Manufacturing		*3399	Primary Metal Products, NEC (nonferrous nails, brads, staples, etc.)
			3496	Miscellaneous Fabricated Wire Products
3327	Machine Shops, Turned Product, and Screw, Nut and Bolt Manufacturing			

33271	Machine Shops	N	*3599	Industrial and Commercial Machinery and Equipment, NEC (machine shops)
33272	Turned Product and Screw, Nut and Bolt Manufacturing			
332721	Precision Turned Product Manufacturing	E	3451	Screw Machine Products
332722	Bolt, Nut, Screw, Rivet and Washer Manufacturing	E	3452	Bolts, Nuts, Screws, Rivets, and Washers
3328	Coating, Engraving, Heat Treating and Allied Activities			
33281	Coating, Engraving, Heat Treating, and Allied Activities			
332811	Metal Heat Treating	E	3398	Metal Heat Treating
332812	Metal Coating, Engraving and Allied Services (except Jewelry and Silverware) to Manufacturing	R	*3479	Coating, Engraving, and Allied Services, NEC (except jewelry, silverware, and flatware engraving and etching)
332813	Electroplating, Plating, Polishing, Anodizing and Coloring	R	*3399	Primary Metal Products, NEC (laminating steel)
			3471	Electroplating, Plating, Polishing, Anodizing, and Coloring
3329	Other Fabricated Metal Product Manufacturing			
33291	Metal Valve Manufacturing	E	3491	Industrial Valves
332911	Industrial Valve Manufacturing		3492	Fluid Power Valves and Hose Fittings
332912	Fluid Power Valve and Hose Fitting Manufacturing	R	*3728	Aircraft Parts and Auxiliary Equipment, NEC (fluid power aircraft subassemblies)
332913	Plumbing Fixture Fitting and Trim Manufacturing	R	*3432	Plumbing Fixture Fittings and Trim (except shower rods)
332919	Other Metal Valve and Pipe Fitting Manufacturing	R	*3429	Hardware, NEC (hose nozzles)
			*3494	Valves and Pipe Fittings, NEC (except metal pipe hangers and supports)
			*3499	Fabricated Metal Products, NEC (metal aerosol valves)
33299	All Other Fabricated Metal Product Manufacturing			
332991	Ball and Roller Bearing Manufacturing	E	3562	Ball and Roller Bearings
332992	Small Arms Ammunition Manufacturing	E	3482	Small Arms Ammunition
332993	Ammunition (except Small Arms) Manufacturing	E	3483	Ammunition, Except for Small Arms
332994	Small Arms Manufacturing	E	3484	Small Arms
332995	Other Ordnance and Accessories Manufacturing	E	3489	Ordnance and Accessories, NEC
332996	Fabricated Pipe and Pipe Fitting Manufacturing	E	3498	Fabricated Pipe and Pipe Fittings
332997	Industrial Pattern Manufacturing	E	3543	Industrial Patterns
332998	Enameled Iron and Metal Sanitary Ware Manufacturing	E	3431	Enameled Iron and Metal Sanitary Ware
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing	R	*3291	Abrasive Products (steel wool with or without soap)
			*3432	Plumbing Fixture Fittings and Trim (metal shower rods)
			*3494	Valves and Pipe Fittings, NEC (metal pipe hangers and supports)
			*3497	Metal Foil and Leaf (foil and foil containers)
			*3499	Fabricated Metal Products, NEC (other metal products)
			*3537	Industrial Trucks, Trailers, and Stackers (metal pallets)

333	Machinery Manufacturing				*3599	Industrial and Commercial Machinery and Equipment, NEC (flexible metal hose)
3331	Agriculture, Construction, and Mining Machinery Manufacturing				*3999	Manufacturing Industries, NEC (other miscellaneous metal products, such as combs, hair curlers, etc.)
33311	Agricultural Implement Manufacturing			R	*3523	Farm Machinery and Equipment (except corrals, stalls, holding gates, hand clippers for animals, and farm conveyors/elevators)
333111	Farm Machinery and Equipment Manufacturing			R	*3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment (except nonpowered lawnmowers)
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing			R	*3531	Construction Machinery and Equipment (except railway track maintenance equipment; winches, aerial work platforms; and automotive wreckers hoists)
33312	Construction Machinery Manufacturing				3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment
33313	Mining and Oil and Gas Field Machinery Manufacturing			E	3533	Oil and Gas Field Machinery and Equipment
333131	Mining Machinery and Equipment Manufacturing			E	3553	Woodworking Machinery
333132	Oil and Gas Field Machinery and Equipment Manufacturing			N	*3559	Special Industry Machinery, NEC (rubber and plastics manufacturing machinery)
3332	Industrial Machinery Manufacturing				3554	Paper Industries Machinery
33321	Sawmill and Woodworking Machinery Manufacturing			E	3552	Textile Machinery
33322	Rubber and Plastics Industry Machinery Manufacturing			E	3555	Printing Trades Machinery and Equipment
33329	Other Industrial Machinery Manufacturing			E	3556	Food Products Machinery
333291	Paper Industry Machinery Manufacturing			N	*3559	Special Industry Machinery, NEC (semiconductor manufacturing)
333292	Textile Machinery Manufacturing			R	*3559	Special Industry Machinery, NEC (except rubber and plastics manufacturing machinery, semiconductor manufacturing machinery, and automotive maintenance equipment)
333293	Printing Machinery and Equipment Manufacturing				*3639	Household Appliances, NEC (household sewing machines)
333294	Food Product Machinery Manufacturing					
333295	Semiconductor Machinery Manufacturing					
333298	All Other Industrial Machinery Manufacturing					
3333	Commercial and Service Industry Machinery Manufacturing					
33331	Commercial and Service Industry Machinery Manufacturing					
333311	Automatic Vending Machine Manufacturing			E	3581	Automatic Vending Machines
333312	Commercial Laundry, Drycleaning and Pressing Machine Manufacturing			E	3582	Commercial Laundry, Drycleaning and Pressing Machines

333313	Office Machinery Manufacturing	N	*3578	Calculating and Accounting Machinery, Except Electronic Computers (except point of sales terminals and funds transfer devices)
			*3579	Office Machines, NEC (except timeclocks, time stamps, pencil sharpeners, stapling machines, etc.)
333314	Optical Instrument and Lens Manufacturing	E	3827	Optical Instruments and Lenses
333315	Photographic and Photocopying Equipment Manufacturing	N	*3861	Photographic Equipment and Supplies (except photographic film, paper, plates and chemicals)
333319	Other Commercial and Service Industry Machinery Manufacturing	R	*3559	Special Industry Machinery, NEC (automotive maintenance equipment)
			3589	Service Industry Machinery, NEC
			*3599	Industrial and Commercial Machinery and Equipment, NEC (carnival amusement park equipment)
			*3699	Electrical Machinery, Equipment and Supplies, NEC (electronic teaching machines and flight simulators)
3334	Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing			
33341	Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing			
333411	Air Purification Equipment Manufacturing	N	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (air purification equipment)
333412	Industrial and Commercial Fan and Blower Manufacturing	R	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (fans and blowers)
333414	Heating Equipment (except Electric and Warm Air Furnaces) Manufacturing	R	3433	Heating Equipment, Except Electric and Warm Air Furnaces
			*3634	Electric Housewares and Fans (wall and baseboard heating units for permanent installation)
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing	R	*3443	Fabricated Plate Work (Boiler Shops) (metal cooling towers)
			*3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment (except motor vehicle air-conditioning)
3335	Metalworking Machinery Manufacturing			
33351	Metalworking Machinery Manufacturing			
333511	Industrial Mold Manufacturing	R	*3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds (industrial molds)
333512	Machine Tool (Metal Cutting Types) Manufacturing	E	3541	Machine Tools, Metal Cutting Type
333513	Machine Tool (Metal Forming Types) Manufacturing	E	3542	Machine Tools, Metal Forming Type
333514	Special Die and Tool, Die Set, Jig and Fixture Manufacturing	R	*3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds (except molds)

333515	Cutting Tool and Machine Tool Accessory Manufacturing	R	*3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (except precision measuring devices)
333516	Rolling Mill Machinery and Equipment Manufacturing	E	3547	Rolling Mill Machinery and Equipment
333518	Other Metalworking Machinery Manufacturing	E	3549	Metalworking Machinery, NEC
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing			
33361	Engine, Turbine and Power Transmission Equipment Manufacturing			
333611	Turbine and Turbine Generator Set Unit Manufacturing	E	3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units
333612	Speed Changer, Industrial High-Speed Drive and Gear Manufacturing	E	3566	Speed Changers, Industrial High-Speed Drives, and Gears
333613	Mechanical Power Transmission Equipment Manufacturing	E	3568	Mechanical Power Transmission Equipment, NEC
333618	Other Engine Equipment Manufacturing	R	*3519	Internal Combustion Engines, NEC (except stationary engine radiators)
			*3699	Electrical Machinery, Equipment and Supplies, NEC (outboard electric motors)
3339	Other General Purpose Machinery Manufacturing			
33391	Pump and Compressor Manufacturing			
333911	Pump and Pumping Equipment Manufacturing	R	3561	Pumps and Pumping Equipment
			*3743	Railroad Equipment (locomotive fuel lubricating or cooling medium pumps)
333912	Air and Gas Compressor Manufacturing	E	3563	Air and Gas Compressors
333913	Measuring and Dispensing Pump Manufacturing	E	3586	Measuring and Dispensing Pumps
33392	Material Handling Equipment Manufacturing			
333921	Elevator and Moving Stairway Manufacturing	E	3534	Elevators and Moving Stairways
333922	Conveyor and Conveying Equipment Manufacturing	R	*3523	Farm Machinery and Equipment (farm conveyors and elevators)
			3535	Conveyors and Conveying Equipment
333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing	R	3536	Overhead Traveling Cranes, Hoists, and Monorail Systems
			*3531	Construction Machinery and Equipment (winches, aerial work platforms, and automobile wrecker hoists)
333924	Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing	R	*3537	Industrial Trucks, Tractors, Trailers, and Stackers (except metal pallets and metal air cargo containers)
33399	All Other General Purpose Machinery Manufacturing			
333991	Power-Driven Hand Tool Manufacturing	E	3546	Power-Driven Handtools
333992	Welding and Soldering Equipment Manufacturing	R	*3548	Electric and Gas Welding and Soldering Equipment (except transformers for arc-welding)
333993	Packaging Machinery Manufacturing	E	3565	Packaging Machinery
333994	Industrial Process Furnace and Oven Manufacturing	E	3567	Industrial Process Furnaces and Ovens

333995	Fluid Power Cylinder and Actuator Manufacturing	E	3593	Fluid Power Cylinders and Actuators
333996	Fluid Power Pump and Motor Manufacturing	E	3594	Fluid Power Pumps and Motors
333997	Scale and Balance (except Laboratory) Manufacturing	E	3596	Scales and Balances, Except Laboratory
333999	All Other General Purpose Machinery Manufacturing	R	*3599	Industrial and Commercial Machinery and Equipment, NEC (other industrial and commercial machinery and equipment)
			3569	General Industrial Machinery and Equipment, NEC
334	Computer and Electronic Product Manufacturing			
3341	Computer and Peripheral Equipment Manufacturing			
33411	Computer and Peripheral Equipment Manufacturing	E	3571	Electronic Computers
334111	Electronic Computer Manufacturing	E	3572	Computer Storage Devices
334112	Computer Storage Device Manufacturing	E	3575	Computer Terminals
334113	Computer Terminal Manufacturing	R	*3577	Computer Peripheral Equipment, NEC
334119	Other Computer Peripheral Equipment Manufacturing		*3578	Calculating and Accounting Machines, Except Electronic Computers (point of sale terminals and fund transfer devices)
			*3699	Electrical Machinery, Equipment and Supplies, NEC (bar code scanners)
3342	Communications Equipment Manufacturing	R	*3661	Telephone and Telegraph Apparatus (except telephone transformers and consumer external modems)
33421	Telephone Apparatus Manufacturing	R	3663	Radio and Television Broadcasting and Communication Equipment
33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing	E	*3679	Electronic Components, NEC (communication equipment)
33429	Other Communications Equipment Manufacturing	E	3669	Communications Equipment, NEC
3343	Audio and Video Equipment Manufacturing	E	3651	Household Audio and Video Equipment
33431	Audio and Video Equipment Manufacturing			
3344	Semiconductor and Other Electronic Component Manufacturing			
33441	Semiconductor and Other Electronic Component Manufacturing	E		
334411	Electron Tube Manufacturing	E	3671	Electron Tubes
334412	Printed Circuit Board Manufacturing	E	3672	Printed Circuit Boards
334413	Semiconductor and Related Device Manufacturing	E	3674	Semiconductors and Related Devices
334414	Electronic Capacitor Manufacturing	E	3675	Electronic Capacitors
334415	Electronic Resistor Manufacturing	E	3676	Electronic Resistors
334416	Electronic Coil, Transformer, and Other Inductor Manufacturing	R	*3661	Telephone and Telegraph Apparatus (telephone transformers)
			3677	Electronic Coils, Transformers, and Other Inductors
			*3825	Instruments for Measuring and Testing of Electricity and Electrical Signals (portable instrument transformers)
334417	Electronic Connector Manufacturing	E	3678	Electronic Connectors

334418	Printed Circuit/Electronics Assembly Manufacturing	N	*3679	Electronic Components, NEC (printed circuit/electronic assembly manufacturing)
334419	Other Electronic Component Manufacturing	R	*3661	Telephone and Telegraph Apparatus (consumer external modems)
3345	Navigation, Measuring, Medical, and Control Instruments Manufacturing		*3679	Electronic Components, NEC (other electronic components)
33451	Navigation, Measuring, Medical, and Control Instruments Manufacturing			
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	R	*3842	Orthopedic, Prosthetic and Surgical Appliances and Supplies (electronic hearing aids)
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing	E	3845	Electromedical and Electrotherapeutic Apparatus
334512	Automatic Environmental Control Manufacturing for Residential, Commercial and Appliance Use	E	3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments
334513	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables	E	3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances
334514	Totalizing Fluid Meter and Counting Device Manufacturing	E	3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals	R	3824	Totalizing Fluid Meters and Counting Devices
334516	Analytical Laboratory Instrument Manufacturing	E	*3825	Instruments for Measuring and Testing of Electricity and Electrical Signals (except portable instrument transformers)
334517	Irradiation Apparatus Manufacturing	E	3826	Laboratory Analytical Instruments
334518	Watch, Clock, and Part Manufacturing	R	3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus
			*3495	Wire Springs (clock and watch springs)
			*3579	Office Machines, NEC (time clocks and other time recording devices)
			3873	Watches, Clocks, Clockwork Operated Devices, and Parts
334519	Other Measuring and Controlling Device Manufacturing	R	*3829	Measuring and Controlling Devices, NEC (except medical thermometers)
3346	Manufacturing and Reproducing Magnetic and Optical Media			
33461	Manufacturing and Reproducing Magnetic and Optical Media			
334611	Software Reproducing	N	*7372	Prepackaged Software (reproduction of software)
334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing	N	*3652	Phonograph Records and Prerecorded Audio Tapes and Disks (reproduction of all other media except video)
334613	Magnetic and Optical Recording Media Manufacturing	E	*7819	Services Allied to Motion Picture Production (reproduction of video)
			3695	Magnetic and Optical Recording Media
335	Electrical Equipment, Appliance and Component Manufacturing			
3351	Electric Lighting Equipment Manufacturing			
33511	Electric Lamp Bulb and Part Manufacturing	E	3641	Electric Lamp Bulbs and Tubes

33512	Lighting Fixture Manufacturing				
335121	Residential Electric Lighting Fixture Manufacturing	E	3645	Residential Electric Lighting Fixtures	
335122	Commercial, Industrial and Institutional Electric Lighting Fixture Manufacturing	E	*3999	Manufacturing Industries, NEC (lamp shades of paper or textile)	
335129	Other Lighting Equipment Manufacturing	R	3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	
			3648	Lighting Equipment, NEC	
3352	Household Appliance Manufacturing		*3699	Electrical Machinery, Equipment, and Supplies, NEC (Christmas tree lighting sets and electric insect lamps)	
33521	Small Electrical Appliance Manufacturing				
335211	Electric Housewares and Fan Manufacturing	R	*3634	Electric Housewares and Fans (except wall and baseboard heating units for permanent installation)	
335212	Household Vacuum Cleaner Manufacturing	R	3635	Household Vacuum Cleaners	
			*3639	Household Appliances, NEC (floor waxing and floor polishing machines)	
33522	Major Appliance Manufacturing				
335221	Household Cooking Appliance Manufacturing	E	3631	Household Cooking Equipment	
335222	Household Refrigerator and Home and Farm Freezer Manufacturing	E	3632	Household Refrigerators and Home and Farm Freezers	
335224	Household Laundry Equipment Manufacturing	E	3633	Household Laundry Equipment	
335228	Other Household Appliance Manufacturing	R	*3639	Household Appliances, NEC (except floor waxing and floor polishing machines, and household sewing machines)	
3353	Electrical Equipment Manufacturing				
33531	Electrical Equipment Manufacturing				
335311	Power, Distribution and Specialty Transformer Manufacturing	R	*3548	Electric and Gas Welding and Soldering Equipment (transformers for arc-welders)	
335312	Motor and Generator Manufacturing	R	3612	Power, Distribution, and Specialty Transformers	
			3621	Motors and Generators	
335313	Switchgear and Switchboard Apparatus Manufacturing	E	*7694	Armature Rewinding Shops (remanufacturing)	
335314	Relay and Industrial Control Manufacturing	E	3613	Switchgear and Switchboard Apparatus	
3359	Other Electrical Equipment and Component Manufacturing		3625	Relays and Industrial Controls	
33591	Accumulator and Battery Manufacturing				
335911	Storage Battery Manufacturing	E	3691	Storage Batteries	
335912	Dry and Wet Primary Battery Manufacturing	E	3692	Primary Batteries, Dry and Wet	
33592	Communication and Energy Wire and Cable Manufacturing				
335921	Fiber Optic Cable Manufacturing	N	*3357	Drawing and Insulating of Nonferrous Wire (fiber optic cable-insulating only)	
335929	Other Communication and Energy Wire Manufacturing	N	*3357	Drawing and Insulating of Nonferrous Wire (communication and energy wire, except fiber optic-insulating only)	

33593	Current Carrying Conductors and Accessories Manufacturing			
335931	Current-Carrying Wiring Device Manufacturing	E	3643	Current-Carrying Wiring Devices
335932	Noncurrent-Carrying Wiring Device Manufacturing	E	3644	Noncurrent-Carrying Wiring Devices
33599	All Other Electrical Equipment and Component Manufacturing			
335991	Carbon and Graphite Product Manufacturing	R	*3624	Carbon and Graphite Products (except gaskets)
335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing	R	3629	Electrical Industrial Apparatus, NEC
			*3699	Electrical Machinery, Equipment, and Supplies, NEC (other electrical industrial apparatus)
336	Transportation Equipment Manufacturing			
3361	Motor Vehicle Manufacturing			
33611	Automobile and Light Duty Motor Vehicle Manufacturing			
336111	Automobile Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (automobiles)
336112	Light Truck and Utility Vehicle Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (light trucks and utility vehicles)
33612	Heavy Duty Truck Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (heavy duty trucks)
3362	Motor Vehicle Body and Trailer Manufacturing			
33621	Motor Vehicle Body and Trailer Manufacturing			
336211	Motor Vehicle Body Manufacturing	R	*3711	Motor Vehicles and Passenger Car Bodies (kit car and other passenger car bodies)
			3713	Truck and Bus Bodies
			*3714	Motor Vehicle Parts and Accessories (dumptruck lifting mechanisms and fifth wheels)
336212	Truck Trailer Manufacturing	E	3715	Truck Trailers
336213	Motor Home Manufacturing	E	3716	Motor Homes
336214	Travel Trailer and Camper Manufacturing	R	3792	Travel Trailers and Campers
			*3799	Transportation Equipment, NEC (automobile, boat, utility and light truck trailers)
3363	Motor Vehicle Parts Manufacturing			
33631	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing			
336311	Carburetor, Piston, Piston Ring and Valve Manufacturing	E	3592	Carburetors, Pistons, Piston Rings, and Valves
336312	Gasoline Engine and Engine Parts Manufacturing	N	*3714	Motor Vehicle Parts and Accessories (gasoline engines and engine parts including rebuilt)
33632	Motor Vehicle Electrical and Electronic Equipment Manufacturing			
336321	Vehicular Lighting Equipment Manufacturing	E	3647	Vehicular Lighting Equipment

336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing	R	*3679 Electronic Components, NEC (electronic control modules for motor vehicles) 3694 Electrical Equipment for Internal Combustion Engines *3714 Motor Vehicle Parts and Accessories (wiring harness sets, other than ignition; block heaters and battery heaters; instrument board assemblies; permanent defrosters; windshield washer-wiper mechanisms; cruise control mechanisms; and other electrical equipment for internal combustion engines) *3714 Motor Vehicle Parts and Accessories (steering and suspension parts) *3292 Asbestos Products (asbestos brake linings and pads) *3714 Motor Vehicle Parts and Accessories (brake and brake systems, including assemblies) *3714 Motor Vehicle Parts and Accessories (transmissions and power train parts, including rebuilding) *2396 Automotive Trimmings, Apparel Findings, and Related Products (textile motor vehicle trimming) *2399 Fabricated Textile Products, NEC (seat belts, and seat and tire covers) *2531 Public Building and Related Furniture (seats for motor vehicles) 3465 Automotive Stampings *3585 Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment (motor vehicle air-conditioning) *3519 Internal Combustion Engines, NEC (stationary engine radiators) *3599 Industrial and Commercial Machinery and Equipment, NEC (gasoline, oil and intake filters for internal combustion engines, except for motor vehicles) *3714 Motor Vehicle Parts and Accessories (except truck and bus bodies, trailers, engine and engine parts, motor vehicle electrical and electronic equipment, motor vehicle steering and suspension components, motor vehicle brake systems, and motor vehicle transmission and power train parts)
33633	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing	N	
33634	Motor Vehicle Brake System Manufacturing	N	
33635	Motor Vehicle Transmission and Power Train Part Manufacturing	N	
33636	Motor Vehicle Fabric Accessories and Seat Manufacturing	N	
33637	Motor Vehicle Metal Stamping	E	
33639	Other Motor Vehicle Parts Manufacturing		
336391	Motor Vehicle Air-Conditioning Manufacturing	N	
336399	All Other Motor Vehicle Parts Manufacturing	R	
3364	Aerospace Product and Parts Manufacturing		
33641	Aerospace Product and Parts Manufacturing	E	3721 Aircraft
336411	Aircraft Manufacturing	E	3724 Aircraft Engines and Engine Parts
336412	Aircraft Engine and Engine Parts Manufacturing	R	*3728 Aircraft Parts and Auxiliary Equipment, NEC (except fluid power aircraft subassemblies)
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing		
336414	Guided Missile and Space Vehicle Manufacturing	E	3761 Guided Missiles and Space Vehicles

336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing	E	3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts
336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing	E	3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment
3365	Railroad Rolling Stock Manufacturing	R	*3531	Construction Machinery and Equipment (railway track maintenance equipment)
33651	Railroad Rolling Stock Manufacturing	R	*3743	Railroad Equipment (except locomotive fuel lubricating or cooling medium pumps)
3366	Ship and Boat Building		3731	Ship Building and Repairing
33661	Ship and Boat Building	E	*3732	Boat Building and Repairing (boat building)
336611	Ship Building and Repairing	R		
336612	Boat Building			
3369	Other Transportation Equipment Manufacturing	R	*3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles (metal tricycles)
33699	Other Transportation Equipment Manufacturing		3751	Motorcycles, Bicycles and Parts
336991	Motorcycle, Bicycle and Parts Manufacturing	R	*3711	Motor Vehicles and Passenger Car Bodies (military armored vehicles)
336992	Military Armored Vehicle, Tank and Tank Component Manufacturing	R	3795	Tanks and Tank Components
336999	All Other Transportation Equipment Manufacturing	R	*3799	Transportation Equipment, NEC (except automobile, boat, utility light truck trailers, and wheelbarrows)
337	Furniture and Related Product Manufacturing			
3371	Furniture and Related Product Manufacturing	R	*2515	Mattresses, Foundations, and Convertible Beds (except convertible sofas)
33711	Mattress Manufacturing	E	2591	Drapery Hardware and Window Blinds and Shades
33712	Blind and Shade Manufacturing	R	2434	Wood Kitchen Cabinets
33713	Wood Furniture Manufacturing		*2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers (counter tops)
337131	Wood Kitchen Cabinet and Counter Top Manufacturing		*5712	Furniture Stores (custom wood cabinets)
337132	Upholstered Wood Household Furniture Manufacturing	R	2512	Wood Household Furniture, Upholstered
			*2515	Mattresses, Foundations, and Convertible Beds (convertible sofas)
			*5712	Furniture (custom made upholstered wood household furniture except cabinets)

337133	Wood Household Furniture (except Upholstered) Manufacturing	R	2511	Wood Household Furniture, Except Upholstered
337134	Wood Office Furniture Manufacturing	E	*5712	Furniture Stores (custom made wood household furniture except cabinets)
337135	Custom Architectural Woodwork and Millwork Manufacturing	N	2521	Wood Office Furniture
337139	Other Wood Furniture Manufacturing	N	*2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers (architectural woodwork, millwork, and fixtures)
			*2426	Hardwood Dimension and Flooting Mills (wood furniture frames)
			*2499	Wood Products, NEC (wood laundry hampers)
			2517	Wood Television, Radio, Photographs and Sewing Machine Cabinets
			*2531	Public Building and Related Furniture (wood furniture for public buildings)
			*2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers (except counter tops, custom architectural woodwork, millwork, and fixtures)
			*2599	Furniture and Fixtures, NEC (wood industrial work benches and stools, and other wood furniture such as ship furniture)
			*3952	Lead Pencils, Crayons, and Artists' Materials (wood drafting tables and boards)
33714	Nonwood Furniture Manufacturing		2522	Office Furniture, Except Wood
337141	Nonwood Office Furniture Manufacturing	E	2514	Metal Household Furniture
337142	Metal Household Furniture Manufacturing	E	2519	Household Furniture, NEC
337143	Household Furniture (except Wood and Metal) Manufacturing	E	2542	Office and Store Fixtures, Partitions, Shelving and Lockers, Except Wood
337145	Nonwood Showcase, Partition, Shelving, and Locker Manufacturing	R	*2499	Wood Products, NEC (laundry hampers made from rattan, reed or willow)
337148	Other Nonwood Furniture Manufacturing		*2531	Public Building and Related Furniture (nonwood furniture for public buildings)
			*2599	Furniture and Fixtures, NEC (except wood)
			*3952	Lead Pencils, Crayons, and Artists Materials (metal drafting tables and boards)
			*3499	Fabricated Metal Products, NEC (metal furniture frames)
			*3999	Manufactured Industries, NEC (barber and beauty chairs)
339	Miscellaneous Manufacturing			
3391	Medical Equipment and Supplies Manufacturing			
33911	Medical Equipment and Supplies Manufacturing			
339111	Laboratory Apparatus and Furniture Manufacturing	E	3821	Laboratory Apparatus and Furniture
339112	Surgical and Medical Instrument Manufacturing	E	3841	Surgical and Medical Instruments and Apparatus
339113	Surgical Appliance and Supplies Manufacturing	R	*2599	Furniture and Fixtures, NEC (hospital beds)

339114	Dental Equipment and Supplies Manufacturing	E	*3829	Measuring and Controlling Devices, NEC (medical thermometers)
339115	Ophthalmic Good Manufacturing	E	*3842	Orthopedic, Prosthetic, and Surgical Appliances and Supplies (except electronic hearing aids)
339116	Dental Laboratories	E	3843	Dental Equipment and Supplies
339117	Eyeglass and Contact Lens Manufacturing	E	3851	Ophthalmic Goods
			8072	Dental Laboratories
			*5995	Optical Goods Stores (grinding of lenses to prescription, except one hour labs)
3399	Other Miscellaneous Manufacturing			
33991	Jewelry and Silverware Manufacturing			
339911	Jewelry (including Precious Metal) Manufacturing	R	*3469	Metal Stamping, NEC (stamping coins)
			*3479	Coating, Engraving, and Allied Services, NEC (jewelry engraving and etching, including precious metal)
			3911	Jewelry, Precious Metal
339912	Silverware and Plated Ware Manufacturing	R	*3479	Coating, Engraving, and Allied Services, NEC (silver and plated ware engraving and etching)
			*3914	Silverware, Plated Ware, and Stainless Steel Ware (except nonprecious metal cutlery and flatware)
339913	Jewelers' Material and Lapidary Work Manufacturing	E	3915	Jewelers' Findings and Materials, and Lapidary Work
339914	Costume Jewelry and Novelty Manufacturing	R	*3479	Coating, Engraving, and Allied Services, NEC (costume jewelry engraving and etching)
			*3499	Fabricated Metal Products, NEC (trophies of nonprecious metals)
33992	Sporting and Athletic Goods Manufacturing	E	3961	Costume Jewelry and Costume Novelties, Except Precious Metal
33993	Doll, Toy, and Game Manufacturing		3949	Sporting and Athletic Goods, NEC
339931	Doll and Stuffed Toy Manufacturing			
339932	Game, Toy, and Children's Vehicle Manufacturing	E	3942	Dolls and Stuffed Toys
			*3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles (except metal triecycles)
33994	Office Supplies (except Paper) Manufacturing			
339941	Pen and Mechanical Pencil Manufacturing	E	3951	Pens, Mechanical Pencils, and Parts
339942	Lead Pencil and Art Good Manufacturing	R	*2531	Public Buildings and Related Furniture (blackboards)
			*3579	Office Machines, NEC (pencil sharpeners, staplers and other office equipment)
			*3952	Lead Pencils, Crayons, and Artists' Materials (except drawing and india ink, and drafting tables and boards)
339943	Marking Device Manufacturing	E	3953	Marking Devices
339944	Carbon Paper and Inked Ribbon Manufacturing	E	3955	Carbon Paper and Inked Ribbons
33995	Sign Manufacturing	E	3993	Signs and Advertising Specialties
33999	All Other Miscellaneous Manufacturing			
339991	Gasket, Packing, and Sealing Device Manufacturing	R	3053	Gaskets, Packing, and Sealing Devices
			*3624	Carbon and Graphite Products (carbon and graphite gaskets)

339992	Musical Instrument Manufacturing	E	3931	Musical Instruments
339993	Fastener, Button, Needle and Pin Manufacturing	R	3965	Fasteners, Buttons, Needles, and Pins
			*3131	Boat and Shoe Cut Stock and Findings (metal buckles)
339994	Broom, Brush and Mop Manufacturing	R	3991	Brooms and Brushes
			*2392	Housefurnishings, Except Curtains and Draperies (mops, floor and dust)
339995	Burial Casket Manufacturing	E	3995	Burial Caskets
339999	All Other Miscellaneous Manufacturing	R	*2499	Wood Products, NEC (mirror and picture frames)
			*3999	Manufacturing Industries, NEC (other miscellaneous products not specially provided for previously)
42	Wholesale Trade			
421	Wholesale Trade, Durable Goods			
4211	Motor Vehicle and Motor Vehicle Part and Supplies Wholesalers			
42111	Automobile and Other Motor Vehicle Wholesalers	E	5012	Automobiles and Other Motor Vehicles
42112	Motor Vehicle Supplies and New Part Wholesalers	R	*5013	Motor Vehicle Supplies and New Parts (except parts sold via retail methods)
42113	Tire and Tube Wholesalers	R	*5014	Tires and Tubes (except tires sold via retail method)
42114	Motor Vehicle Part (Used) Wholesalers	E	5015	Motor Vehicle Parts, Used
4212	Furniture and Home Furnishing Wholesalers			
42121	Furniture Wholesalers	R	*5021	Furniture (except furniture sold via retail method)
42122	Home Furnishing Wholesalers	R	*5023	Homefurnishings (except homefurnishings sold via retail method)
4213	Lumber and Other Construction Materials Wholesalers			
42131	Lumber, Plywood, Millwork and Wood Panel Wholesalers	R	*5031	Lumber, Plywood, Millwork, and Wood Panels (except construction materials sold via retail method)
			*5211	Lumber and Other Building Materials Dealers - Retail (construction materials sold by establishments "known as retail in the trade" selling via wholesale method)
42132	Brick, Stone and Related Construction Material Wholesalers	R	*5032	Brick, Stone, and Related Construction Materials (except construction materials sold via retail method)
42133	Roofing, Siding and Insulation Material Wholesalers	E	5033	Roofing, Siding, and Insulation Materials
42139	Other Construction Material Wholesalers	R	*5039	Construction Materials, NEC (sold via wholesale method)
4214	Professional and Commercial Equipment and Supplies Wholesalers			
42141	Photographic Equipment and Supplies Wholesalers	E	5043	Photographic Equipment and Supplies
42142	Office Equipment Wholesalers	E	5044	Office Equipment
42143	Computer and Computer Peripheral Equipment and Software Wholesalers	R	*5045	Computers and Computer Peripherals Equipment and Software (except computers, equipment, and software sold via retail method)
42144	Other Commercial Equipment Wholesalers	E	5046	Commercial Equipment, NEC

42145	Medical, Dental and Hospital Equipment and Supplies Wholesalers	R	*5047	Medical, Dental and Hospital Equipment and Supplies (except medical, dental, and hospital equipment and supplies sold via retail method)
42146	Ophthalmic Goods Wholesalers	E	5048	Ophthalmic Goods
42149	Other Professional Equipment and Supplies Wholesalers	R	*5049	Professional Equipment and Supplies, NEC (except religious and school supplies sold via retail method)
4215	Metal and Mineral (except Petroleum) Wholesalers	E	5051	Metals Service Centers and Offices
42151	Metal Service Centers and Offices	E	5052	Coal and Other Mineral and Ores
42152	Coal and Other Mineral and Ore Wholesalers	E		
4216	Electrical Goods Wholesalers	R	*5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials (except electrical supplies sold via retail method)
42161	Electrical Apparatus and Equipment, Wiring Supplies and Construction Material Wholesalers	E	5064	Electrical Appliances, Television and Radio Sets
42162	Electrical Appliance, Television and Radio Set Wholesalers	E	5065	Electronic Parts and Equipment, NEC
42169	Other Electronic Part and Equipment Wholesalers	E		
4217	Hardware, and Plumbing and Heating Equipment and Supplies Wholesalers	E	5072	Hardware
42171	Hardware Wholesalers	R	*5074	Plumbing and Heating Equipment and Supplies (Hydronics) (except plumbing equipment sold via retail method)
42172	Plumbing and Heating Equipment and Supplies (Hydronics) Wholesalers	E	5075	Warm Air Heating and Air-Conditioning Equipment and Supplies
42173	Warm Air Heating and Air-Conditioning Equipment and Supplies Wholesalers	E	5078	Refrigeration Equipment and Supplies
42174	Refrigeration Equipment and Supplies Wholesalers	E		
4218	Machinery, Equipment and Supplies Wholesalers	E	5082	Construction and Mining (Except Petroleum) Machinery and Equipment
42181	Construction and Mining (except Petroleum) Machinery and Equipment Wholesalers	R	*5083	Farm and Garden Machinery and Equipment (except lawn and garden equipment sold via retail method)
42182	Farm and Garden Machinery and Equipment Wholesalers	R	5084	Industrial Machinery and Equipment
42183	Industrial Machinery and Equipment Wholesalers	R	*5085	Industrial Supplies (fluid power accessories)
42184	Industrial Supplies Wholesalers	R		Industrial Supplies (except fluid power accessories and reconditioning barrels)
42185	Service Establishment Equipment and Supplies Wholesalers	R	*5087	Service Establishment Equipment and Supplies (except sales of the service establishment equipment and supplies sold via retail method.
42186	Transportation Equipment and Supplies (except Motor Vehicle) Wholesalers	E	5088	Transportation Equipment and Supplies, Except Motor Vehicles
4219	Miscellaneous Durable Goods Wholesalers	E	5091	Sporting and Recreational Goods and Supplies
42191	Sporting and Recreational Goods and Supplies Wholesalers	E	5092	Toys and Hobby Goods and Supplies
42192	Toy and Hobby Goods and Supplies Wholesalers	E	5093	Scrap and Waste Materials
42193	Recyclable Material Wholesalers	E		

42194	Jewelry, Watch, Precious Stone and Precious Metal Wholesalers	E	5094	Jewelry, Watches, Precious Stones, and Precious Metals
42199	Other Miscellaneous Durable Goods Wholesalers	R	5099	Durable Goods, NEC
422	Wholesale Trade, Nondurable Goods		*7822	Motion Picture and Video Tape Distribution (prerecorded video tapes - distribution)
4221	Paper and Paper Product Wholesalers	E	5111	Printing and Writing Paper
42211	Printing and Writing Paper Wholesalers	R	*5112	Stationery and Office Supplies (except stationary and office supplies sold via retail method)
42212	Stationary and Office Supplies Wholesalers	E	5113	Industrial and Personal Service Paper
42213	Industrial and Personal Service Paper Wholesalers	E	5122	Drugs, Drug Proprietaries, and Druggists' Sundries
4222	Drug, Drug Proprietaries and Druggists' Sundries Wholesalers			
42221	Drug, Drug Proprietaries and Druggists' Sundries Wholesalers	R	*5131	Piece Goods, Notions, and Other Dry Goods (except piece goods converters)
4223	Apparel, Piece Goods, and Notions Wholesalers	E	5136	Men's and Boys' Clothing and Furnishings
42231	Piece Goods, Notions and Other Dry Goods Wholesalers	E	5137	Women's, Children's, and Infants' Clothing and Accessories
42232	Men's and Boys' Clothing and Furnishings Wholesalers	E	5139	Footwear
42233	Women's, Children's, and Infants' and Accessories Wholesalers	E	5141	Groceries, General Line
42234	Footwear Wholesalers	E	5142	Packaged Frozen Foods
4224	Grocery and Related Product Wholesalers	E	5143	Dairy Products, Except Dried or Canned
42241	General Line Grocery Wholesalers	E	5144	Poultry and Poultry Products
42242	Packaged Frozen Food Wholesalers	E	5145	Confectionery
42243	Dairy Product (except Dried or Canned) Wholesalers	E	5146	Fish and Seafoods
42244	Poultry and Poultry Product Wholesalers	R	*5147	Meats and Meat Products (except boxed beef)
42245	Confectionery Wholesalers	E	5148	Fresh Fruits and Vegetables
42246	Fish and Seafood Wholesalers	E	5149	Groceries and Related Products, NEC
42247	Meat and Meat Product Wholesalers	E	5153	Grain and Field Beans
42248	Fresh Fruit and Vegetable Wholesalers	E	5154	Livestock
42249	Other Grocery and Related Products Wholesalers	E	5159	Farm-Product Raw Materials, NEC
4225	Farm Product Raw Material Wholesalers			
42251	Grain and Field Bean Wholesalers	E	5162	Plastics Materials and Basic Forms and Shapes
42252	Livestock Wholesalers	E		
42259	Other Farm Product Raw Material Wholesalers	E	5169	Chemicals and Allied Products, NEC
4226	Chemical and Allied Products Wholesalers			
42261	Plastics Materials and Basic Forms and Shapes Wholesalers	E		
42269	Other Chemical and Allied Products Wholesalers	E		
4227	Petroleum and Petroleum Products Wholesalers			

42271	Petroleum Bulk Stations and Terminals	R	*5171	Petroleum Bulk Stations and Terminals (except petroleum sold via retail method)
42272	Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)	E	5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals
4228	Beer, Wine, and Distilled Alcoholic Beverage Wholesalers	E	5181	Beer and Ale
42281	Beer and Ale Wholesalers	E	5182	Wine and Distilled Alcoholic Beverages
42282	Wine and Distilled Alcoholic Beverage Wholesalers			
4229	Miscellaneous Nondurable Goods Wholesalers			
42291	Farm Supplies Wholesalers	R	*5191	Farm Supplies (except lawn and garden supplies sold via retail method)
42292	Book, Periodical and Newspaper Wholesalers	E	5192	Books, Periodicals, and Newspapers
42293	Flower, Nursery Stock and Florists' Supplies Wholesalers	E	*5193	Flowers, Nursery Stock, and Florists' Supplies (except nursery stock sold via retail method)
42294	Tobacco and Tobacco Product Wholesalers	E	5194	Tobacco and Tobacco Products
42295	Paint, Varnish and Supplies Wholesalers	R	*5198	Paints, Varnishes, and Supplies (except paints, etc. sold via retail method)
			*5231	Paint, Glass and Wallpaper Stores (sold via wholesale method)
42299	Other Miscellaneous Nondurable Goods Wholesalers	R	*5199	Nondurable Goods, NEC (except specialty advertising)
44-45	Retail Trade			
441	Motor Vehicle and Parts Dealers			
4411	Automobile Dealers			
44111	New Car Dealers	E	5511	Motor Vehicle Dealers (New and Used)
44112	Used Car Dealers	E	5521	Motor Vehicle Dealers (Used Only)
4412	Other Motor Vehicle Dealers			
44121	Recreational Vehicle Dealers	E	5561	Recreational Vehicle Dealers
44122	Motorcycles, Boats and Other Motor Vehicle Dealers			
441221	Motorcycle Dealers	E	5571	Motorcycle Dealers
441222	Boat Dealers	E	5551	Boat Dealers
441229	All Other Motor Vehicle Dealers	E	5599	Automotive Dealers, NEC
4413	Automotive Parts, Accessories and Tire Stores			
44131	Automotive Parts and Accessories Stores	N	*5013	Motor Vehicle Supplies and New Parts (Wholesale) (auto parts sold via retail method)
			*5731	Radio, Television, and Consumer Electronics Stores (automobile radios)
			*5531	Auto and Home Supply Stores (except tires and tubes)
			*5014	Tires and Tubes (Wholesale) (tires and tubes sold via retail method)
			*5531	Auto and Home Supply Stores (tires and tubes)
44132	Tire Dealers	N		
442	Furniture and Home Furnishings Stores			
4421	Furniture Stores			
44211	Furniture Stores	R	*5021	Furniture (Wholesale) (sold via the retail method)

4422	Home Furnishings Stores			*5712	Furniture Stores (except custom furniture and cabinets)
44221	Floor Covering Stores	R		*5023	Homefurnishings (Wholesale) (floor covering sold via retail method)
44229	Other Home Furnishings Stores	N		5713	Floor Coverings Stores
442291	Window Treatment Stores			*5714	Drapery, Curtain, and Upholstery Stores (drapery and curtain stores)
442299	All Other Home Furnishings Stores	R		*5719	Miscellaneous Homefurnishings Stores (blinds and shades)
443	Electronics and Appliance Stores			*5719	Miscellaneous Homefurnishings Stores (except pottery and crafts made and sold on site and frame shops, and window furnishings)
4431	Electronics and Appliance Stores			5722	Household Appliance Stores
44311	Appliance, Television and Other Electronics Stores	R		*5999	Miscellaneous Retail Stores, NEC (personal appliance stores)
443111	Household Appliance Stores			*7623	Refrigeration and Air-Conditioning Service and Repair Shops (sales location providing supporting refrigerator repair services as major source of receipts)
443112	Radio, Television and Other Electronics Stores	R		*7629	Electrical and Electronic Repair Shops, NEC (Services) (Sales location providing supporting appliance repair services as major source of receipts)
44312	Computer and Software Stores	R		*5731	Radio, Television, and Consumer Electronics Stores (except auto radios)
44313	Camera and Photographic Supplies Stores	E		*5999	Miscellaneous Retail Stores, NEC (typewriters and telephones)
444	Building Material and Garden Equipment and Supplies Dealers			*7622	Radio and Television Repair Shops (sales locations providing supporting repair services as major source of receipts)
4441	Building Material and Supplies Dealers			*5045	Computers and Computer Peripheral Equipment and Software (sold via retail method)
44411	Home Centers	N		*7378	Computer Maintenance and Repair (sales locations providing supporting repair services as major source of receipts)
44412	Paint and Wallpaper Stores	R		5734	Computer and Computer Software Stores
44413	Hardware Stores	E		5946	Camera and Photographic Supply Stores
44419	Other Building Material Dealers	R		*5211	Lumber and Other Building Materials Dealers (home center stores)
				*5198	Paints, Varnishes, and Supplies (sold via retail method)
				*5231	Paint, Glass, and Wallpaper Stores (paint and wallpaper)
				5251	Hardware Stores
				*5031	Lumber, Plywood, Millwork, and Wood Panels (Wholesale) (sold via retail method)
				*5032	Brick, Stone, and Related Construction Materials (Wholesale) (sold via retail method)

4442	Lawn and Garden Equipment and Supplies Stores				*5039	Construction Materials, NEC (Wholesale) (glass sold via retail method)
44421	Outdoor Power Equipment Stores					
44422	Nursery and Garden Centers			N	*5063	Electrical Apparatus and Equipment, Wiring Supplies, and Construction Materials (Wholesale) (sold via retail method)
					*5074	Plumbing and Heating Equipment and Supplies (Hydronics) (sold via retail method)
					*5211	Lumber and Other Building Materials Dealers (except home centers)
					*5231	Paint, Glass, and Wallpaper Stores (glass)
					*5083	Farm and Garden Machinery and Equipment (Wholesale) (sold via retail method)
					*5261	Retail Nurseries, Lawn and Garden Supply Stores (outdoor power equipment)
				R	*5191	Farm Supplies (sold via retail method)
					*5193	Flowers, Nursery Stock, and Florists' Supplies (sold via retail method)
					*5261	Retail Nurseries, Lawn and Garden Supply Stores (except outdoor power equipment and cut Christmas trees)
445	Food and Beverage Stores					
4451	Grocery Stores				*5411	Grocery Stores (except convenience stores and grocery stores with substantial general merchandise)
44511	Supermarkets and Other Grocery (except Convenience) Stores			N	*5411	Grocery Stores (convenience stores without gas)
44512	Convenience Stores			N		
4452	Specialty Food Stores				*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (meat except freezer provisioners)
44521	Meat Markets			R	*5499	Miscellaneous Food Stores (poultry and poultry products)
					*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (seafood),
44522	Fish and Seafood Markets			N	5431	Fruit and Vegetable Markets
44523	Fruit and Vegetable Markets			E		
44529	Other Specialty Food Stores				*5461	Retail Bakeries (selling only)
445291	Baked Goods Stores			R	5441	Candy, Nut and Confectionery Stores
445292	Confectionery and Nut Stores			E	*5499	Miscellaneous Food Stores (except food supplements, poultry stores, and stores with food for immediate consumption)
445299	All Other Specialty Food Stores			R	5451	Dairy Products Stores
					5921	Liquor Stores
4453	Beer, Wine and Liquor Stores			E		
44531	Beer, Wine and Liquor Stores					
446	Health and Personal Care Stores					
4461	Health and Personal Care Stores					
44611	Pharmacies and Drug Stores			E	5912	Drug Stores and Proprietary Stores

44612	Cosmetics, Beauty Supplies and Perfume Stores	N	*5087	Service Establishment Equipment and Supplies (beauty and barber supplies sold via retail method)
44613	Optical Goods Stores	R	*5999	Miscellaneous Retail Stores, NEC (cosmetics and perfumes)
44619	Other Health and Personal Care Stores		*5995	Optical Goods Stores (except labs grinding prescription lenses)
446191	Food (Health) Supplement Stores	N	*5499	Miscellaneous Food Stores (food supplements)
446199	All Other Health and Personal Care Stores	N	*5047	Medical, Dental, and Hospital Equipment and Supplies (sold via retail method)
447	Gasoline Stations		*5999	Miscellaneous Retail Stores, NEC (hearing aids and artificial limbs)
4471	Gasoline Stations			
44711	Gasoline Stations with Convenience Stores	N	*5541	Gasoline Service Station (gasoline station with convenience store)
44719	Other Gasoline Stations	N	*5411	Grocery Stores (convenience store with gas)
448	Clothing and Clothing Accessories Stores		*5541	Gasoline Service Station (gasoline station without convenience store)
4481	Clothing Stores			
44811	Men's Clothing Stores	R	*5611	Men's and Boys' Clothing and Accessory Stores (clothing stores)
44812	Women's Clothing Stores	E	5621	Women's Clothing Stores
44813	Children's and Infants' Clothing Stores	E	5641	Children's and Infants' Wear Stores
44814	Family Clothing Stores	E	5651	Family Clothing Stores
44815	Clothing Accessories Stores	N	*5611	Men's and Boys' Clothing and Accessory Stores (accessories)
			*5632	Women's Accessory and Specialty Stores (specialty clothing)
			*5699	Miscellaneous Apparel and Accessory Stores (accessories)
44819	Other Clothing Stores	R	*5699	Miscellaneous Apparel and Accessory Stores (miscellaneous apparel)
			*5632	Women's Accessory and Specialty Stores (accessories)
4482	Shoe Stores	E	5661	Shoe Stores
44821	Shoe Stores			
4483	Jewelry, Luggage, and Leather Goods Stores	R	*5999	Miscellaneous Retailer, NEC (rough gems)
44831	Jewelry Stores		5944	Jewelry Stores
44832	Luggage and Leather Goods Stores	E	5948	Luggage and Leather Goods Stores
451	Sporting Goods, Hobby, Book and Music Stores			
4511	Sporting Goods, Hobby and Musical Instrument Stores			
45111	Sporting Goods Stores	R	*7699	Repair Shops and Related Services, NEC (bicycle sales locations providing supporting repair services as major source of receipts)
			5941	Sporting Goods Stores and Bicycle Shops
45112	Hobby, Toy and Game Stores	E	5945	Hobby, Toy, and Game Stores
45113	Sewing, Needlework and Piece Goods Stores	R	*5714	Drapery, Curtain, and Upholstery Stores (upholstery materials)
45114	Musical Instrument and Supplies Stores		5949	Sewing, Needlework, and Piece Goods Stores
4512	Book, Periodical and Music Stores	E	5736	Musical Instruments Stores

45121	Book Stores and News Dealers				
451211	Book Stores	E	5942	Book Stores	
451212	News Dealers and Newsstands	E	5994	News Dealers and Newsstands	
45122	Prerecorded Tape, Compact Disc and Record Stores	E	5735	Record and Prerecorded Tape Stores	
452	General Merchandise Stores				
4521	Department Stores				
45211	Department Stores	E	5311	Department Stores	
4529	Other General Merchandise Stores	N	*5399	Miscellaneous General Merchandise Stores (warehouse clubs and supermarket/general merchandise combination)	
45291	Warehouse Clubs and Superstores		*5411	Grocery Stores (grocery stores and supermarkets selling substantial amounts of nonfood items)	
45299	All Other General Merchandise Stores	R	*5399	Miscellaneous General Merchandise Stores (except warehouse club and supermarket/general merchandise combination)	
453	Miscellaneous Store Retailers		5331	Variety Stores	
4531	Florists				
45311	Florists	E	5992	Florists	
4532	Office Supplies, Stationery and Gift Stores				
45321	Office Supplies and Stationery Stores	R	*5049	Professional Equipment and Supplies, NEC (school and church supplies sold via retail method)	
45322	Gift, Novelty and Souvenir Stores		*5112	Stationery and Office Supplies (sold via retail method)	
4533	Used Merchandise Stores		5943	Stationery Stores	
45331	Used Merchandise Stores	E	5947	Gift, Novelty, and Souvenir Shops	
4539	Other Miscellaneous Store Retailers				
45391	Pet and Pet Supplies Stores	R	*5932	Used Merchandise Stores (except pawn shops)	
45392	Art Dealers	N	*5999	Miscellaneous Retail Stores, NEC (pet and pet supplies)	
45393	Manufactured (Mobile) Home Dealers	N	*5999	Miscellaneous Retail Stores, NEC (art dealer)	
45399	All Other Miscellaneous Store Retailers	E	5271	Mobile Home Dealers	
453991	Tobacco Stores	E	5993	Tobacco Stores and Stands	
453999	All Other Miscellaneous Store Retailers (except Tobacco Stores)	R	*5999	Miscellaneous Retail Stores, NEC (except art, pet and pet supplies, hearing aids, artificial limbs, cosmetics, live Christmas trees, telephones, typewriters, personal appliances and rough gems)	
454	Nonstore Retailers		*5261	Retail Nurseries, Lawn and Garden Supply Stores (cut Christmas trees)	
4541	Electronic Shopping and Mail-Order Houses				
45411	Electronic Shopping and Mail-Order Houses	E	5961	Catalog and Mail-Order Houses	
4542	Vending Machine Operators				

45421	Vending Machine Operators	E	5962	Automatic Merchandise Machine Operators
4543	Direct Selling Establishments			
45431	Fuel Dealers			
454311	Heating Oil Dealers	R	*5171	Petroleum Bulk Stations and Terminals (heating oil sold to final consumer)
			5983	Fuel Oil Dealers
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	R	*5171	Petroleum Bulk Stations and Terminals (LP gas sold to final consumer)
			5984	Liquefied Petroleum Gas (Bottled Gas) Dealers
454319	Other Fuel Dealers	E	5989	Fuel Dealers, NEC
45439	Other Direct Selling Establishments	R	*5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners (freezer provisioners)
			*5963	Direct Selling Establishments (except mobile food services)
48-49	Transportation and Warehousing			
481	Air Transportation			
4811	Scheduled Air Transportation			
48111	Scheduled Air Transportation	N	*4512	Air Transportation, Scheduled (passenger)
481111	Scheduled Passenger Air Transportation	N	*4512	Air Transportation, Scheduled (freight)
481112	Scheduled Freight Air Transportation			
4812	Nonscheduled Air Transportation			
48121	Nonscheduled Chartered Air Transportation	N	*4522	Air Transportation, Nonscheduled (passenger)
481211	Nonscheduled Chartered Passenger Air Transportation	N	*4522	Air Transportation, Nonscheduled (freight)
481212	Nonscheduled Chartered Freight Air Transportation	N		Establishments that use small, general purpose aircraft to provide a variety of specialized flying services, with none of them predominating, such as the following:
48122	Nonscheduled Specialty Air Transportation		*0721	Crop Planting, Cultivating, and Protecting (crop dusting)
			*0851	Forestry Services (aerial forest fire fighting)
			*1382	Oil and Gas Field Exploration Services (aerial geophysical exploration)
			*4522	Air Transportation, Nonscheduled (mixed operations)
			*7319	Advertising, NEC (aerial advertising)
			*7335	Commercial Photography (aerial photography)
			*7997	Membership Sports and Recreation Clubs (membership aviation clubs)
			*8299	Schools and Educational Services, NEC (flight school)
			*8713	Surveying Services (aerial surveying)
482	Rail Transportation			
4821	Rail Transportation			
48211	Rail Transportation			
482111	Line-Haul Railroads	E	4011	Railroads, Line-Haul Operating

482112	Short Line Railroads	N	*4013	Railroad Switching and Terminal Establishments (belt line and logging railroads)
483	Water Transportation			
4831	Deep Sea, Coastal and Great Lakes Water Transportation			
48311	Deep Sea, Coastal and Great Lakes Water Transportation			
483111	Deep Sea Freight Transportation	E	4412	Deep Sea Foreign Transportation of Freight
483112	Deep Sea Passenger Transportation	R	*4481	Deep Sea Transportation of Passengers, Except by Ferry (deep sea activities)
483113	Coastal and Great Lakes Freight Transportation	R	4424	Deep Sea Domestic Transportation of Freight
			4432	Freight Transportation on the Great Lakes - St. Lawrence Seaway
			*4492	Towing and Tugboat Services (coastal barge operations)
483114	Coastal and Great Lakes Passenger Transportation	R	*4481	Deep Sea Transportation of Passengers, Except by Ferry (coastal activities)
			*4482	Ferries (coastal and Great Lakes)
4832	Inland Water Transportation			
48321	Inland Water Transportation			
483211	Inland Water Freight Transportation	R	4449	Water Transportation of Freight, NEC
			*4492	Towing and Tugboat Services (inland barge operations)
483212	Inland Water Passenger Transportation	R	*4482	Ferries (inland)
			*4489	Water Transportation of Passengers, NEC (water taxi)
484	Truck Transportation			
4841	General Freight Trucking			
48411	General Freight Trucking, Local	N	*4212	Local Trucking without Storage (general freight)
			*4214	Local Trucking with Storage (general freight)
48412	General Freight Trucking, Long-Distance	N	*4213	Trucking, Except Local (general freight, truckload)
484121	General Freight Trucking, Long-Distance, Truckload	N	*4213	Trucking, Except Local (general freight, less than truckload)
484122	General Freight Trucking, Long-Distance, Less Than Truckload			
4842	Specialized Freight Trucking			
48421	Used Household and Office Goods Moving	N	*4212	Local Trucking Without Storage (household goods moving)
			*4213	Trucking, Except Local (household goods moving)
			*4214	Local Trucking With Storage (household goods moving)
48422	Specialized Freight (except Used Goods) Trucking, Local	N	*4212	Local Trucking without Storage (specialized freight)
			*4214	Local Trucking with Storage (specialized freight)
48423	Specialized Freight (except Used Goods) Trucking, Long-Distance	N	*4213	Trucking, Except Local (specialized freight)
485	Transit and Ground Passenger Transportation			
4851	Urban Transit Systems			
48511	Urban Transit Systems			
485111	Mixed Mode Transit Systems	N	*4111	Local and Suburban Transit (mixed mode)
485112	Commuter Rail Systems	N	*4111	Local and Suburban Transit (commuter rail)

485113	Bus and Motor Vehicle Transit Systems	N	*4111	Local and Suburban Transit (bus and motor vehicle)
485119	Other Urban Transit Systems	N	*4111	Local and Suburban Transit (other than mixed mode, commuter rail, and bus and motor vehicle)
4852	Interurban and Rural Bus Lines	E	4131	Intercity and Rural Bus Transportation
48521	Interurban and Rural Bus Lines			
4853	Taxi and Limousine Service	E	4121	Taxicabs
48531	Taxi Service			
48532	Limousine Service	N	*4119	Local Passenger Transportation, NEC (limousine rental with driver and automobile rental with driver)
4854	School and Employee Bus Industry			
48541	School and Employee Bus Industry	R	4151	School Buses
4855	Charter Bus Industry			
48551	Charter Bus Industry	R	*4119	Local Passenger Transportation, NEC (employee transportation)
4859	Other Transit and Ground Passenger Transportation			
48599	Other Transit and Ground Passenger Transportation			
485991	Special Needs Transportation	N	*4119	Local Passenger Transportation, NEC (special needs transportation)
485999	All Other Transit and Ground Passenger Transportation	R	*4111	Local and Suburban Transit (airport transportation service)
			*4119	Local Passenger Transportation, NEC (hearse rental with driver and carpool and vanpool operation)
486	Pipeline Transportation			
4861	Pipeline Transportation of Crude Oil	E	4612	Crude Petroleum Pipelines
48611	Pipeline Transportation of Crude Oil			
4862	Pipeline Transportation of Natural Gas	R	4922	Natural Gas Transmission
48621	Pipeline Transportation of Natural Gas		*4923	Natural Gas Transmission and Distribution (transmission)
4869	Other Pipeline Transportation			
48691	Pipeline Transportation of Refined Petroleum Products	E	4613	Refined Petroleum Pipelines
48699	All Other Pipeline Transportation	E	4619	Pipelines, NEC
487	Scenic and Sightseeing Transportation			
4871	Scenic and Sightseeing Transportation, Land			
48711	Scenic and Sightseeing Transportation, Land	N	*4119	Local Passenger Transportation, NEC (sightseeing buses and cable and cog railways, except scenic)
			*4789	Transportation Services, NEC (horse-drawn cabs and carriages)
			*7999	Amusement and Recreation Services, NEC (scenic transport operations, land)
4872	Scenic and Sightseeing Transportation, Water			
48721	Scenic and Sightseeing Transportation, Water	N	*4489	Water Transportation of Passengers, NEC (airboats, excursion boats, and sightseeing boats)

4879	Scenic and Sightseeing Transportation, Other			*7999	Amusement and Recreation Services, NEC (charter fishing)
48799	Scenic and Sightseeing Transportation, Other		N	*4522	Air Transportation, Non-Scheduled (sightseeing planes)
				*7999	Amusement and Recreation Services, NEC (aerial tramways, scenic and amusement)
488	Support Activities for Transportation				
4881	Support Activities for Air Transportation				
48811	Airport Operations				
488111	Air Traffic Control		N	*4581	Airports, Flying Fields, and Airport Terminal Services (private air traffic control)
				*9621	Regulation and Administration of Transportation Programs (government air traffic control)
488112	Air Operations (except Air Traffic Control)		N	*4581	Airports, Flying Fields, and Airport Terminal Services (airfreight handling at airports, hangar operations, airport terminal services, aircraft storage, airports, and flying fields)
				*4959	Sanitary Services, NEC (vacuuming of runways)
48819	Other Support Activities for Air Transportation		N	*4581	Airports, Flying Fields, and Airport Terminal Services (aircraft servicing and repairing)
4882	Support Activities for Rail Transportation				
48821	Support Activities for Rail Transportation		R	*4013	Railroad Switching and Terminal Establishments (all but short line railroads)
				*4741	Rental of Railroad Cars (grain leveling in railroad cars, grain trimming for railroad equipment, precooling of fruits and vegetables in connection with transportation, and railroad car cleaning, icing, ventilating, and heating)
				*4789	Transportation Services, NEC (car loading and unloading; cleaning of railroad ballasts; dining, parlor, sleeping, and other car operations; and railroad maintenance)
4883	Support Activities for Water Transportation				
48831	Port and Harbor Operations		N	*4491	Marine Cargo Handling (dock and pier operations)
				*4499	Water Transportation Services, NEC (seaway and lighthouse operations)
48832	Marine Cargo Handling		R	*4491	Marine Cargo Handling (all but dock and pier operations)
48833	Navigational Services to Shipping		N	*4492	Towing and Tugboat Services (all but barge operations)
				*4499	Water Transportation Services, NEC (piloting vessels in and out of harbors and marine salvage)
48839	Other Support Activities for Water Transportation		R	*4499	Water Transportation Services, NEC (all but seaway and lighthouse operations, piloting vessels in and out of harbors, boat and ship rental, and marine salvage)
				*4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation (marine cargo checkers)

4884	Support Activities for Road Transportation				
48841	Motor Vehicle Towing	N	*7549	Automotive Services, Except Repair and Carwashes (towing)	
48849	Other Support Activities for Road Transportation	R	4173	Terminal and Service Facilities for Motor Vehicle Passenger Transportation	
			4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	
4885	Freight Transportation Arrangement		*4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation (all but marine cargo checkers)	
48851	Freight Transportation Arrangement	R	*4731	Arrangement of Transportation of Freight and Cargo (except freight rate auditors and tariff consultants)	
4889	Other Support Activities for Transportation				
48899	Other Support Activities for Transportation	E	4783	Packing and Crating	
488991	Packing and Crating	R	*4729	Arrangement of Passenger Transportation, NEC (arrangement of carpools and vanpools)	
488999	All Other Support Activities for Transportation		*4789	Transportation Services, NEC (pipeline terminals and stockyards for transportation)	
491	Postal Service				
4911	Postal Service	E	4311	United States Postal Service	
49111	Postal Service				
492	Couriers and Messengers				
4921	Couriers	R	*4215	Courier Services, Except by Air (hub and spoke intercity delivery)	
49211	Couriers		4513	Air Courier Services	
4922	Local Messengers and Local Delivery	N	*4215	Courier Services, Except by Air (local delivery)	
49221	Local Messengers and Local Delivery				
493	Warehousing and Storage Facilities				
4931	Warehousing and Storage Facilities	R	*4225	General Warehousing and Storage (all but self-storage miniwarehouse warehousing)	
49311	General Warehousing and Storage		*4226	Special Warehousing and Storage, NEC (warehousing in foreign trade zones)	
49312	Refrigerated Storage Facilities	R	4222	Refrigerated Warehousing and Storage	
49313	Farm Product Storage Facilities	E	*4226	Special Warehousing and Storage, NEC (fur storage)	
49319	Other Warehousing and Storage Facilities	R	4221	Farm Product Warehousing and Storage	
			*4226	Special Warehousing and Storage, NEC (all but fur storage and warehousing in foreign trade zones)	

51	Information			
511	Publishing Industries			
5111	Newspaper, Periodical, Book and Database Publishers			
51111	Newspaper Publishers			
51112	Periodical Publishers			
51113	Book Publishers			
51114	Database and Directory Publishers			
51119	Other Publishers			
511191	Greeting Card Publishers			
511199	All Other Publishers			
5112	Software Publishers			
51121	Software Publishers			
512	Motion Picture and Sound Recording Industries			
5121	Motion Picture and Video Industries			
51211	Motion Picture and Video Production			
51212	Motion Picture and Video Distribution			
51213	Motion Picture and Video Exhibition			
512131	Motion Picture Theaters, Except Drive-Ins.			
512132	Drive-In Motion Picture Theaters			
51219	Post Production and Other Motion Picture and Video Industries			
512191	Teleproduction and Other Post-Production Services			
512199	Other Motion Picture and Video Industries			
5122	Sound Recording Industries			
51221	Record Production			
51222	Integrated Record Production/Distribution			
51223	Music Publishers			
51224	Sound Recording Studios			
2711	Newspapers: Publishing or Publishing and Printing	E		
2721	Periodicals: Publishing or Publishing and Printing	E		
2731	Books: Publishing or Publishing and Printing	E		
*2741	Miscellaneous Publishing (database publishers)	N		
*2771	Greeting Cards	E		
*2741	Miscellaneous Publishing (except database and sheet music publishing)	R		
*7372	Prepackaged Software (software publishing)	R		
7812	Motion Picture and Video Tape Production	E		
*7822	Motion Picture and Video Tape Distribution (except video tape and cassette wholesalers)	R		
*7829	Services Allied to Motion Picture Distribution (film libraries)			
7832	Motion Picture Theaters, Except Drive-In	E		
7833	Drive-In Motion Picture Theaters	E		
*7819	Services Allied to Motion Picture Production (teleproduction and post-production services)	N		
*7819	Services Allied to Motion Picture Production (except casting bureaus, wardrobe and equipment rental, talent payment services, teleproduction and other post-production services, reproduction of videos, and film distributors and other related motion picture production services)	N		
*7829	Services Allied to Motion Picture Distribution (except film libraries)			
*3652	Phonograph Records and Prerecorded Audio Tapes and Disks (record publishing)	N		
*8999	Services, NEC (music royalties, sheet and record)			
*3652	Phonograph Records and Prerecorded Audio Tapes and Disks (integrated record companies, except duplication only)	N		
*8999	Services, NEC (music publishing)	N		
*7389	Business Services, NEC (recording studios)	N		

51229	Other Sound Recording Industries	N	*7389 Business Services, NEC (audio taping services) *7922 Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services (producers of radio programs)
513	Broadcasting and Telecommunications		
5131	Radio and Television Broadcasting		
51311	Radio Broadcasting		
513111	Radio Networks	N	*4832 Radio Broadcasting Stations (networks)
513112	Radio Stations	N	*4832 Radio Broadcasting Stations (except networks)
51312	Television Broadcasting	N	4833 Television Broadcasting Stations
5132	Cable Networks and Program Distribution		
51321	Cable Networks	N	*4841 Cable and Other Pay Television Services (cable networks)
51322	Cable and Other Program Distribution	N	*4841 Cable and Other Pay Television Services (except cable networks)
5133	Telecommunications		
51331	Wired Telecommunications Carriers	N	*4813 Telephone Communications, Except Radiotelephone (except resellers)
			4822 Telegraph and Other Message Communications
51332	Wireless Telecommunications Carriers (except Satellite)		
513321	Paging	N	*4812 Radiotelephone Communications (paging carriers)
513322	Cellular and Other Wireless Telecommunications	N	*4812 Radiotelephone Communications (cellular carriers)
			*4899 Communications Services, NEC (radio dispatch)
51333	Telecommunications Resellers	N	*4812 Radio Communications (paging and cellular resellers)
			*4813 Telephone Communications, Except Radiotelephone (resellers)
51334	Satellite Telecommunications	N	*4899 Communications Services, NEC (satellite communications)
51339	Other Telecommunications	N	*4899 Communications Services, NEC (except radio dispatch, satellite communications)
514	Information Services and Data Processing Services		
5141	Information Services		
51411	News Syndicates	E	7383 News Syndicates
51412	Libraries and Archives	E	8231 Libraries
51419	Other Information Services		
514191	On-Line Information Services	E	7375 Information Retrieval Services
514199	All Other Information Services	N	*8999 Services, NEC (miscellaneous information providers)
5142	Data Processing Services		
51421	Data Processing Services	E	7374 Computer Processing and Data Preparation and Processing Services
52	Finance and Insurance		
521	Monetary Authorities - Central Bank		
5211	Monetary Authorities - Central Bank		
52111	Monetary Authorities - Central Bank	E	6011 Federal Reserve Banks
522	Credit Intermediation and Related Activities		
5221	Depository Credit Intermediation		
52211	Commercial Banking	R	*6021 National Commercial Banks (banking)

52212	Savings Institutions	R	*6022 State Commercial Banks (banking)
52213	Credit Unions	R	6029 Commercial Banks, NEC
52219	Other Depository Credit Intermediation	N	*6081 Branches and Agencies of Foreign Banks (banking)
5222	Non-Depository Credit Intermediation	N	6035 Savings Institutions, Federally Chartered
52221	Credit Card Issuing	N	6036 Savings Institutions, Not Federally Chartered
52222	Sales Financing	N	6061 Credit Unions, Federally Chartered
			6062 Credit Unions, Not Federally Chartered
			*6022 State Commercial Banks (private and industrial banking)
			*6021 National Commercial Banks (credit card issuing)
52229	Other Non-Depository Credit Intermediation	R	*6022 State Commercial Banks (credit card issuing)
522291	Consumer Lending		*6141 Personal Credit Institutions (credit card issuing)
522292	Real Estate Credit	R	*6141 Personal Credit Institutions (installment sales finance)
522293	International Trade Financing	N	*6153 Short-Term Business Credit Institutions, Except Agricultural (business sales finance)
			*6159 Miscellaneous Business Credit Institutions (finance leasing)
			*6141 Personal Credit Institutions (except installment sales finance and credit card issuing)
			*6162 Mortgage Bankers and Loan Correspondents (mortgage bankers and originators)
			*6081 Branches and Agencies of Foreign Banks (international trade financing)
522294	Secondary Market Financing	N	6082 Foreign Trade and International Banking Institutions
522298	All Other Non-Depository Credit Intermediation	N	*6111 Federal and Federally-Sponsored Credit Agencies (trade banks)
			*6159 Miscellaneous Business Credit Institutions (trade banks)
			*6111 Federal and Federally Sponsored Credit Agencies (except trade banks)
			*5932 Used Merchandise Stores (pawnshops)
			*6081 Branches and Agencies of Foreign Banks (agencies)
			*6111 Federal and Federally-Sponsored Credit Agencies (except trade banks and secondary market financing)
			*6153 Short-Term Business Credit Institutions, Except Agricultural (except credit card service and business sales finance)
			*6159 Miscellaneous Business Credit Institutions (except trade banks and finance leasing)
5223	Activities Related to Credit Intermediation	E	6163 Loan Brokers
52231	Mortgage and Other Loan Brokers	N	6019 Central Reserve Depository Institutions, NEC
52232	Financial Transactions Processing, Reserve, and Clearing House Activities		*6099 Functions Related to Depository Banking, NEC (electronic funds transfer networks and clearing house associations)

52239	Other Activities Related to Credit Intermediation	N	*6153 Short-Term Business Credit Institutions, Except Agricultural (credit card service) *7389 Business Services, NEC (credit card service) *6099 Functions Related to Depository Banking, NEC (except money orders, electronic funds transfer networks and clearing houses, foreign currency exchanges, escrow and fiduciary agencies and deposit brokers) *6162 Mortgage Bankers and Loan Correspondents (mortgage servicing)
523	Securities, Commodity Contracts and Other Intermediation and Related Activities		
5231	Securities and Commodity Contracts Intermediation and Brokerage		
52311	Investment Banking and Securities Dealing	N	*6211 Security Brokers, Dealers, and Flotation Companies (securities dealers and underwriters)
52312	Securities Brokerage	N	*6211 Security Brokers, Dealers, and Flotation Companies (security brokers)
52313	Commodity Contracts Dealing	N	*6099 Functions Related to depository Banking, NEC (foreign currency exchange) *6799 Investors, NEC (commodity contract trading companies) *6221 Commodity Contracts Brokers and Dealers (commodity dealers) *6221 Commodity Contracts Brokers and Dealers (commodity brokers)
52314	Commodity Brokerage		
5232	Securities and Commodity Exchanges	E	6231 Security and Commodity Exchanges
52321	Securities and Commodity Exchanges		
5239	Other Financial Investment Activities		
52391	Miscellaneous Intermediation	N	*6211 Securities Brokers, Dealers and Flotation Companies (except securities and commodity dealers) *6799 Investors, NEC (venture capital companies) *6282 Investment Advice (portfolio managers) *6371 Pension, Health, and Welfare Funds (managers) *6733 Trust, Except Educational, Religious, and Charitable (managers) *6799 Investors, NEC (pool operators) *6282 Investment Advice (except portfolio managers)
52392	Portfolio Management	N	
52393	Investment Advice	R	
52399	All Other Financial Investment Activities	N	*6021 National Commercial Banks (trust services) *6022 State Commercial Banks (trust services) 6091 Nondeposit Trust Facilities *6099 Functions Related to Depository Banking, NEC (escrow and fiduciary agencies)
523991	Trust, Fiduciary and Custody Activities		*6289 Services Allied With the Exchange of Securities or Commodities, NEC (securities custodians) *6733 Trusts, Except Educational, Religious, and Charitable (administrators of private estates)

523999	Miscellaneous Financial Investment Activities	R	*6099 Functions Related to Depository Banking, NEC (deposit brokers) *6211 Security Brokers, Dealers, and Flotation Companies (other except security and commodity) *6289 Services Allied With the Exchange of Securities or Commodities, NEC (except security custodians) *6799 Investors, NEC (except pool operators and venture capital companies) *6792 Oil Royalty Traders (investors on own account)
524	Insurance Carriers and Related Activities		
5241	Insurance Carriers		
52411	Direct Life, Health and Medical Insurance Carriers	R	*6311 Life Insurance (life insurers-direct)
524113	Direct Life Insurance Carriers	R	*6324 Hospital and Medical Service Plans (health and medical insurers-direct)
524114	Direct Health and Medical Insurance Carriers		*6321 Accident and Health Insurance (health and medical insurers-direct)
52412	Direct Insurance Carriers (except Life, Health, and Medical)		
524126	Direct Property and Casualty Insurance Carriers	R	*6331 Fire, Marine, and Casualty Insurance (fire, marine, and casualty insurers-direct)
524127	Direct Title Insurance Carriers	R	*6351 Surety Insurance (financial responsibility insurers-direct)
524128	Other Direct Insurance Carriers (except Life, Health and Medical)	E	*6361 Title Insurance (title insurers-direct)
52413	Reinsurance Carriers	N	6399 Insurance Carriers, NEC *6311 Life Insurance (reinsurers) *6321 Accident and Health Insurance (reinsurers) *6324 Hospital and Medical Service Plans (reinsurers) *6331 Fire, Marine, and Casualty Insurance (reinsurers) *6351 Surety Insurance (reinsurers) *6361 Title Insurance (reinsurers)
5242	Agencies, Brokerages and Other Insurance Related Activities		
52421	Insurance Agencies and Brokerages	R	*6411 Insurance Agents, Brokers and Service (insurance agents and brokers)
52429	Other Insurance Related Activities		
524291	Claims Adjusters	N	*6411 Insurance Agents, Brokers and Service (insurance claims adjusters)
524292	Third Party Administration for Insurance and Pension Funds	N	*6371 Pension, Health, and Welfare Funds (administrators)
524298	All Other Insurance Related Activities	N	*6411 Insurance Agents, Brokers and Service (processors) *6411 Insurance Agents, Brokers and Service (except processors, agents and brokers, and claims adjusters)
525	Funds, Trusts and Other Financial Vehicles (U.S. Only)		
5251	Insurance and Employee Benefit Funds		
52511	Pension Funds	N	*6371 Pension, Health, and Welfare Funds (pension funds)
52512	Health and Welfare Funds	N	*6371 Pension, Health, and Welfare Funds (health and welfare funds)

52519	Other Insurance Funds	N	*6321 Accident and Health Insurance (self insurers) *6324 Hospital and Medical Service Plans (self insurers) *6331 Fire, Marine, and Casualty Insurance (self insurers) *6733 Trusts, Except Educational, Religious, and Charitable (vacation funds for employees)
5259	Other Investment Pools and Funds	E	6722 Management Investment Offices, Open-End
52591	Open-End Investment Funds	N	*6733 Trusts, Except Educational, Religious, and Charitable (personal trusts, estates, and agency accounts)
52592	Trusts, Estates, and Agency Accounts	E	6798 Real Estate Investment Trusts (REIT funds)
52593	Mortgage Investment Funds	E	6726 Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices
52599	Other Financial Vehicles		
53	Real Estate and Rental and Leasing		
531	Real Estate		
5311	Lessors of Real Estate		
53111	Lessors of Residential Buildings and Dwellings	R	6513 Operators of Apartment Buildings 6514 Operators of Dwellings Other Than Apartment Buildings *6512 Operators of Nonresidential Buildings (other except stadium and arena owners)
53112	Lessors of Nonresidential Buildings (except Miniwarehouses)	N	
53113	Lessors of Miniwarehouses and Self Storage Units	E	*4225 General Warehousing and Storage (miniwarehouses and self-storage units)
53119	Lessors of Other Real Estate Property	R	6515 Operators of Residential Mobile Home Sites 6517 Lessors of Railroad Property 6519 Lessors of Real Property, NEC
5312	Offices of Real Estate Agents and Brokers	N	*6531 Real Estate Agents Managers (agents and brokers)
53121	Offices of Real Estate Agents and Brokers		
5313	Activities Related to Real Estate		
53131	Real Estate Property Managers	N	*6531 Real Estate Agents and Managers (managers-residential, real estate)
531311	Residential Property Managers	N	*6531 Real Estate Agents and Managers (managers-nonresidential, real estate)
531312	Nonresidential Property Managers	N	*6531 Real Estate Agents and Managers (appraisers)
53132	Offices of Real Estate Appraisers		
53139	Other Activities Related to Real Estate	N	*6531 Real Estate Agents and Managers (except real estate managers, condominium management, cemetery management, agents and brokers, and appraisers)
531399	All Other Activities Related to Real Estate		
532	Rental and Leasing Services		
5321	Automotive Equipment Rental and Leasing		
53211	Passenger Car Rental and Leasing	E	7514 Passenger Car Rental
532111	Passenger Car Rental	E	7515 Passenger Car Leasing
532112	Passenger Car Leasing		

53212	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	N	7513	Truck Rental and Leasing Without Drivers
5322	Consumer Goods Rental		7519	Utility Trailers and Recreational Vehicle Rental
53221	Consumer Electronics and Appliances Rental	N	*7359	Equipment Rental and Leasing, NEC (appliances, TV, VCR, and electronic equipment rental)
53222	Formal Wear and Costume Rental	N	*7299	Miscellaneous Personal Services, NEC (formal wear and costume rental)
			*7819	Services Allied to Motion Picture Production (wardrobe rental for motion picture film production)
53223	Video Tape and Disc Rental	E	7841	Video Tape Rental
53229	Other Consumer Goods Rental	N	*7352	Medical Equipment Rental and Leasing (home health furniture and equipment rental and leasing)
532291	Home Health Equipment Rental			
532292	Recreational Goods Rental	N	*7999	Amusement and Recreation Services, NEC (canoe, pleasure boats, bicycles, motorcycles, moped, go carts, etc. rental)
532299	All Other Consumer Goods Rental	R	*7299	Miscellaneous Personal Services, NEC (locker rental, except cold storage)
			*7359	Equipment Rental and Leasing, NEC (except transportation equipment, industrial equipment, and consumer electronics, appliances and home and garden equipment)
5323	General Rental Centers	N	*7359	Equipment Rental and Leasing, NEC (general rental centers)
53231	General Rental Centers			
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing			
53241	Construction, Transportation, Mining and Forestry Machinery and Equipment Rental and Leasing			
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	N	*4499	Water Transportation Services, NEC (boat and ship rental, commercial)
			*4741	Rental of Railroad Cars (rental of railroad cars)
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	R	*7359	Equipment Rental and Leasing, NEC (airplane rental and leasing)
			*7353	Heavy Construction Equipment Rental and Leasing (without operators)
			*7359	Equipment Rental and Leasing, NEC (oil field and well drilling equipment)
53242	Office Machinery and Equipment Rental and Leasing	N	*7359	Equipment Rental and Leasing (office machine rental and leasing)
			7377	Computer Rental and Leasing
53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	N	*7352	Medical Equipment Rental and Leasing (medical machinery and equipment)
			*7359	Equipment Rental and Leasing, NEC (industrial truck and equipment rental and leasing)

	*7819	Services Allied to Motion Picture Production (motion picture equipment rental)	
	*7922	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services (theatrical equipment rental)	
	*6792 6794	Oil Royalty Traders (except investors on own account) Patent Owners and Lessors	
	8111	Legal Services	E
		Null Set for U.S.	L
	6541	Title Abstract Offices	E
	*7389	Business Services, NEC (process services, patent agents, notaries public, paralegal services )	N
	*8721	Accounting, Auditing, and Bookkeeping Services (auditing accountants)	N
	7291	Tax Return Preparation Services	E
	*7819	Services Allied to Motion Picture Production (talent payment services)	N
	*8721	Accounting, Auditing, and Bookkeeping Services (payroll services)	N
	*8721	Accounting, Auditing, and Bookkeeping Services (other accounting services)	N
	8712	Architectural Services	E
	*0781	Landscape Counseling and Planning (except horticultural consulting)	R
	8711	Engineering Services	E
	*7389	Business Services, NEC (drafting service)	N
	*7389	Business Services, NEC (home and building inspection services)	N
	*8713	Surveying Services (geophysical surveying )	N
	*1081	Metal Mining Services (geophysical surveying)	N
	*1382	Oil and Gas Field Exploration Services (geophysical surveying and mapping)	
	*1481	Nonmetallic Minerals Services, Except Fuels (geophysical surveying)	N
	*7389	Business Services, NEC (map making services)	
533		Owners and Lessors of Other Non-Financial Assets	
5331		Owners and Lessors of Other Non-Financial Assets	
53311		Owners and Lessors of Other Non-Financial Assets	
54		Professional, Scientific and Technical Services	
541		Professional, Scientific and Technical Services	
5411		Legal Services	
54111		Offices of Lawyers	
54112		Offices of Notaries	
54119		Other Legal Services	
541191		Title Abstract and Settlement Offices	
541199		Other Legal Services	
5412		Accounting, Tax Preparation, Bookkeeping and Payroll Services	
54121		Accounting, Tax Preparation, Bookkeeping and Payroll Services	
541211		Offices of Certified Public Accountants	
541213		Tax Preparation Services	
541214		Payroll Services	
541219		Other Accounting Services	
5413		Architectural, Engineering and Related Services	
54131		Architectural Services	
54132		Landscape Architectural Services	
54133		Engineering Services	
54134		Drafting Services	
54135		Building Inspection Services	
54136		Geophysical Surveying and Mapping Services	
54137		Surveying and Mapping (except Geophysical) Services	

54138	Testing Laboratories			*8713	Surveying Services (except geophysical surveying)
5414	Specialized Design Services		R	*8734	Testing Laboratories (except veterinary testing laboratories)
54141	Interior Design Services		N	*7389	Business Services, NEC (interior design)
54142	Industrial Design Services		N	*7389	Business Services, NEC (industrial design)
54143	Commercial Art and Graphic Design Services		R	7336	Commercial Art and Graphic Design
				*8099	Health and Allied Services, NEC (medical artists)
54149	Other Specialized Design Services		N	*7389	Business Services, NEC (fashion, furniture, and other design services)
5415	Computer Systems Design and Related Services				
54151	Computer Systems Design and Related Services		E	7371	Computer Programming Services
541511	Custom Computer Programming Services		N	7373	Computer Integrated Systems Design
541512	Computer Systems Design Services			*7379	Computer Related Services, NEC (computer systems consultants)
541513	Computer Facilities Management Services		E	7376	Computer Facilities Management Services
541519	Other Computer Related Services		R	*7379	Computer Related Services, NEC (except computer systems consultants)
5416	Management, Scientific and Technical Consulting Services				
54161	Management Consulting Services		N	*8742	Management Consulting Services (administrative management and general management consulting)
541611	Administrative Management and General Management Consulting Services		N	*8742	Management Consulting Services (human resources and personnel management consulting)
541612	Human Resources and Executive Search Consulting Services			*7361	Employment Agencies (executive placement services)
				*8999	Services, NEC (actuarial consulting)
541613	Marketing Consulting Services		N	*8742	Management Consulting Services (marketing consulting)
541614	Process, Physical, Distribution and Logistics Consulting		N	*8742	Management Consulting Services (manufacturing management, physical distribution, and site location consulting)
541618	Other Management Consulting Services		N	*4731	Arrangement of Transportation of Freight and Cargo (freight rate auditors and tariff consulting)
				*8748	Business Consulting Services, NEC (safety consulting)
54162	Environmental Consulting Services		N	*8999	Services, NEC (environmental consultants)
54169	Other Scientific and Technical Consulting Services		N	*0781	Landscape Counseling and Planning (horticulture consulting)
				*8748	Business Consulting Services, NEC (agriculture, economic, radio, and traffic consultants)
				*8999	Services, NEC (nuclear consultants, geologists, and physicists)
5417	Scientific Research and Development Services				
54171	Research and Development in the Physical Sciences and Engineering Sciences		N	*8731	Commercial Physical and Biological Research (physical and engineering sciences)

54172	Research and Development in the Life Sciences	N	*8733 Noncommercial Research Organizations (physical and engineering services)
54173	Research and Development in the Social Sciences and Humanities	N	*8731 Commercial Physical and Biological Research (life sciences) *8733 Noncommercial Research Organizations (life sciences) *8732 Commercial Economic, Sociological, and Educational Research (social sciences and humanities) *8733 Noncommercial Research Organizations (social sciences and humanities)
5418	Advertising and Related Services		
54181	Advertising Agencies	E	7311 Advertising Agencies
54182	Public Relations Services	E	8743 Public Relations Services
54183	Media Buying Agencies	N	*7319 Advertising, NEC (media buying services)
54184	Media Representatives	E	7313 Radio, Television, and Publishers' Advertising Representatives
54185	Display Advertising	N	7312 Outdoor Advertising Services *7319 Advertising, NEC (display advertising, except outdoor)
54186	Direct Mail Advertising	E	7331 Direct Mail Advertising Services
54187	Advertising Material Distribution Services	N	*7319 Advertising, NEC (advertising materials distributor)
54189	Other Services Related to Advertising	N	*7319 Advertising, NEC (except media buying, display advertising, except outdoor, and advertising material distributors) *5199 Nondurable Goods, NEC (advertising specialties goods distributors) *7389 Business Services, NEC (sign painting and other advertising related business services)
5419	Other Professional, Scientific and Technical Services		
54191	Marketing Research and Public Opinion Polling	N	*8732 Commercial Economic, Sociological, and Educational Research (market research and opinion research)
54192	Photographic Services		
541921	Photography Studios, Portrait	E	7221 Photographic Studios, Portrait
541922	Commercial Photography	R	*7335 Commercial Photography (except when combined with a variety of aircraft based services)
54193	Translation and Interpretation Services	N	*8099 Health and Allied Services, NEC (medical photography)
54194	Veterinary Services	R	*7389 Business Services, NEC (translation and interpretation services) 0741 Veterinary Services for Livestock 0742 Veterinary Services for Animal Specialties
54199	All Other Professional, Scientific and Technical Services	N	*8734 Testing Laboratories (veterinary testing laboratories) *7389 Business Services (appraisers, except insurance and real estate, and miscellaneous professional, scientific, and technical services)
55	Management of Companies and Enterprises		
551	Management of Companies and Enterprises		
5511	Management of Companies and Enterprises		
55111	Management of Companies and Enterprises		

551111	Offices of Bank Holding Companies	E	6712	Offices of Bank Holding Companies
551112	Offices of Other Holding Companies	E	6719	Offices of Holding Companies, NEC
551113	Corporate, Subsidiary and Regional Managing Offices	N		These establishments were included as auxiliaries in the 1987 Standard Industrial Classification
56	Administrative and Support, Waste Management and Remediation Services			
561	Administrative and Support Services			
5611	Office Administrative Services			
56111	Office Administrative Services	R	*8741	Management Services (except construction management)
5612	Facilities Support Services	E	8744	Facilities Support Management Services
56121	Facilities Support Services			
5613	Employment Services			
56131	Employment Placement Agencies	R	*7361	Employment Agencies (except executive placing services)
			*7819	Services Allied to Motion Pictures Production (casting bureaus)
			*7922	Theatrical Producers and Miscellaneous Theatrical Services (casting agencies)
			*7363	Help Supply Services (except employee leasing service)
56132	Temporary Help Services	N	*7363	Help Supply Services (except temporary help service)
56133	Employee Leasing Services	N		
5614	Business Support Services			
56141	Document Preparation Services	N	*7338	Secretarial and Court Reporting (except court reporting)
56142	Telephone Call Centers	N	*7389	Business Services, NEC (telephone answering)
561421	Telephone Answering Services	N	*7389	Business Services, NEC (telemarketing bureaus and telephone soliciting)
561422	Telemarketing Bureaus			
56143	Business Service Centers			
561431	Photocopying and Duplicating Services	E	7334	Photocopying and Duplicating Services
561432	Private Mail Centers	N	*7389	Business Services, NEC (private mail box centers and mail box rental)
56144	Collection Agencies		*7322	Adjustment and Collection Services (except adjustment bureaus)
56145	Credit Bureaus	E	7323	Credit Reporting Services
56149	Other Business Support Services			
561491	Repossession Services	N	*7322	Adjustment and Collection (adjustment bureaus)
			*7389	Business Services, NEC (recovery and repossession services)
561492	Court Reporting and Stenotype Services	N	*7338	Secretarial and Court Reporting (except secretarial)
561499	All Other Business Support Services	N	*7389	Business Services, NEC (business support services except telephone answering, telemarketing bureaus, private mail centers and repossession services)
5615	Travel Arrangement and Reservation Services			

56151	Travel Agencies	E	4724	Travel Agencies
56152	Tour Operators	E	4725	Tour Operators
56159	Other Travel Arrangement and Reservation Services			
561591	Convention and Visitors Bureaus	N	*7389	Business Services, NEC (convention and visitors bureaus, tourist information bureaus)
561599	All Other Travel Arrangement and Reservation Services	N	*4729	Arrangement of Passenger Transportation, NEC (except arrangement of vanpools and carpools)
			*7389	Business Services, NEC (reservation systems: hotel & restaurants)
			*7999	Amusement and Recreation Services, NEC (ticket agencies)
			*8699	Membership Organizations, NEC (motor clubs)
5616	Investigation and Security Services			
56161	Investigation, Guard and Armored Car Services	N	*7381	Detective, Guard, and Armored Car Services (detective services)
561611	Investigation Services	N	*7381	Detective, Guard, and Armored Car Services (guard services)
561612	Security Guards and Patrol Services	N	*7381	Detective, Guard, and Armored Car Services (armored car services)
561613	Armored Car Services			
56162	Security Systems Services			
561621	Security Systems Services (except Locksmiths)	R	7382	Security Systems Services
561622	Locksmiths		*1731	Electrical Work (burglar and fire alarm installation)
5617	Services to Buildings and Dwellings			
56171	Exterminating and Pest Control Services	N	*7699	Repair Shops and Related Services, NEC (locksmith shops)
			*4959	Sanitary Services, NEC (mosquito eradication)
		R	*7342	Disinfecting and Pest Control Services (exterminating and pest control)
56172	Janitorial Services	R	*7342	Disinfecting and Pest Control Services (except exterminating)
			7349	Building Cleaning and Maintenance Services, NEC
			*4581	Airports, Flying Fields, and Airport Terminal Services (airplane cleaning and janitorial services)
56173	Landscaping Services	R	0782	Lawn and Garden Services
			0783	Ornamental Shrub and Tree Services
56174	Carpet and Upholstery Cleaning Services	E	7217	Carpet and Upholstery Cleaning
56179	Other Services to Buildings and Dwellings	N	*7389	Business Services, NEC (swimming pool cleaning and maintenance)
			*7699	Repair Shops and Related Services, NEC (furnace, duct, chimney, gutter, and drain cleaning services)
5619	Other Support Services			
56191	Packaging and Labeling Services	N	*7389	Business Services, NEC (packaging and labeling services)
56192	Convention and Trade Show Organizers	N	*7389	Business Services, NEC (convention and trade show services)
56199	All Other Support Services	N	*7389	Business Services, NEC (other support services except packaging and labeling, convention and trade shows services, convention and visitor bureaus, tourist information bureaus)
562	Waste Management and Remediation Services			
5621	Waste Collection			

56211	Waste Collection				
562111	Solid Waste Collection	N	*4212	Local Trucking Without Storage (solid waste collection without disposal)	
			*4953	Refuse Systems (solid waste collection)	
562112	Hazardous Waste Collection	N	*4212	Local Trucking Without Storage (hazardous waste collection without disposal)	
			*4953	Refuse Systems (hazardous waste collection)	
562119	Other Waste Collection	N	*4212	Local Trucking Without Storage (other waste collection without disposal)	
			*4953	Refuse Systems (other waste collection when combined with disposal)	
5622	Waste Treatment and Disposal				
56221	Waste Treatment and Disposal				
562211	Hazardous Waste Treatment and Disposal	N	*4953	Refuse Systems (hazardous waste treatment and disposal)	
562212	Solid Waste Landfill	N	*4953	Refuse Systems (solid waste landfills)	
562213	Solid Waste Combustors and Incinerators	N	*4953	Refuse Systems (solid waste combustors and incinerators)	
562219	Other Nonhazardous Waste Treatment and Disposal	N	*4953	Refuse Systems (other nonhazardous waste treatment and disposal)	
5629	Remediation and Other Waste Management Services				
56291	Remediation Services	N	*4959	Sanitary Services, NEC (remediation services)	
56292	Materials Recovery Facilities	N	*4953	Refuse Systems (materials recovery facilities)	
56299	All Other Waste Management Services				
562991	Septic Tank and Related Services	N	*7359	Equipment Rental and Leasing, NEC (portable toilet rental)	
			*7699	Repair Shops and Related Services, NEC (cesspool cleaning, sewer cleaning and rodding)	
562998	All Other Miscellaneous Waste Management	R	*4959	Sanitary Services, NEC (all but remediation services, malaria control, mosquito eradication, snowplowing, street sweeping, and airport runway vacuuming)	
61	Educational Services				
611	Educational Services				
6111	Elementary and Secondary Schools				
61111	Elementary and Secondary Schools	E	8211	Elementary and Secondary Schools	
6112	Junior Colleges				
61121	Junior Colleges	E	8222	Junior Colleges and Technical Institutes	
6113	Colleges, Universities and Professional Schools				
61131	Colleges, Universities and Professional Schools	E	8221	Colleges, Universities, and Professional Schools	
6114	Business Schools and Computer and Management Training				
61141	Business and Secretarial Schools	E	8244	Business and Secretarial Schools	
61142	Computer Training	R	*8243	Data Processing Schools (except computer repair training)	
61143	Professional and Management Development Training	N	*8299	Schools and Educational Services, NEC (professional and management development training)	
6115	Technical and Trade Schools				

61151	Technical and Trade Schools				
611511	Cosmetology and Barber Schools	N	*7231	Beauty Shops (beauty and cosmetology schools)	
			*7241	Barber Shops (barber colleges)	
611512	Flight Training	N	*8249	Vocational Schools, NEC (aviation schools, excluding flying instruction)	
			*8299	Schools and Educational Services, NEC (flying instruction)	
611513	Apprenticeship Training	N	*8249	Vocational Schools, NEC (vocational apprenticeship training)	
611519	Other Technical and Trade Schools	N	*8249	Vocational Schools, NEC (except aviation and flight training, apprenticeship training, and driving schools)	
			*8243	Data Processing Schools (computer repair training)	
6116	Other Schools and Instruction				
61161	Fine Arts Schools	N	*8299	Schools and Educational Services, NEC (art, drama, and music schools)	
			*7911	Dance Studios, Schools, and Halls (dance instructors, and professional and other dance schools)	
61162	Sports and Recreation Instruction	N	*7999	Amusement and Recreation Services, NEC (baseball, basketball, bowling, gymnastic, judo, karate, parachute, scuba and skin diving, skating, ski, swimming, tennis, and other sports instruction; and sports instructional schools and camps)	
61163	Language Schools	N	*8299	Schools and Educational Services, NEC (language schools)	
61169	All Other Schools and Instruction				
611691	Exam Preparation and Tutoring	N	*8299	Schools and Educational Services, NEC (exam preparation and tutoring)	
611692	Automobile Driving Schools	N	*8249	Vocational Schools, NEC (truck driving schools)	
			*8299	Schools and Educational Services, NEC (automobile driving instruction)	
611699	All Other Miscellaneous Schools and Instruction	N	*8299	Schools and Educational Services, NEC (except professional and management training, aviation and flight training, fine arts schools, language schools, exam preparation and tutoring, automobile driving schools, and educational support services)	
6117	Educational Support Services				
61171	Educational Support Services	N	*8299	Schools and Educational Services NEC (except instruction)	
			*8748	Business Consulting Services, NEC (educational test development and evaluation services, educational testing services, and educational consultants)	
62	Health Care and Social Assistance				
621	Ambulatory Health Care Services				
6211	Offices of Physicians				
62111	Offices of Physicians				
621111	Offices of Physicians (except Mental Health Specialists)	N	*8011	Offices and Clinics of Doctors of Medicine (except mental health specialists)	

621112	Offices of Physicians, Mental Health Specialists	N	*8031	Offices and Clinics of Doctors of Osteopathy (except mental health specialists)
			*8011	Offices and Clinics of Doctors of Medicine (mental health specialists)
			*8031	Offices and Clinics of Doctors of Osteopathy (mental health specialists)
6212	Offices of Dentists	E	8021	Offices and Clinics of Dentists
62121	Offices of Dentists			
6213	Offices of Other Health Practitioners	E	8041	Offices and Clinics of Chiropractors
62131	Offices of Chiropractors	E	8042	Offices and Clinics of Optometrists
62132	Offices of Optometrists	N	*8049	Offices and Clinics of Health Practitioners, NEC (mental health practitioners except physicians)
62133	Offices of Mental Health Practitioners (except Physicians)		*8322	Individual and Family Social Services (licensed mental health practitioners)
62134	Offices of Physical, Occupational and Speech Therapists and Audiologists	N	*8049	Offices and Clinics of Health Practitioners, NEC (physical, occupational, speech therapists, and audiologists)
62139	Offices of All Other Health Practitioners	E	8043	Offices and Clinics of Podiatrists
621391	Offices of Podiatrists	N	*8049	Offices and Clinics of Health Practitioners, NEC (except mental health practitioners, physical, occupational, speech therapists, and audiologists)
621399	Offices of All Other Miscellaneous Health Practitioners			
6214	Outpatient Care Centers	N	*8093	Specialty Outpatient Facilities, NEC (family planning centers)
62141	Family Planning Centers	N	*8099	Health and Allied Services, NEC (childbirth preparation)
62142	Outpatient Mental Health and Substance Abuse Centers		*8093	Specialty Outpatient Facilities, NEC (mental health facilities)
62149	Other Outpatient Care Centers	N		
621491	HMO Medical Centers	N	*8011	Offices and Clinics of Doctors of Medicine (HMO Medical Centers)
621492	Kidney Dialysis Centers	E	8092	Kidney Dialysis Centers
621493	Freestanding Ambulatory Surgical and Emergency Centers	N	*8011	Offices and Clinics of Doctors of Medicine (surgical and emergency centers)
621498	All Other Outpatient Care Centers	N	*8093	Specialty Outpatient Facilities, NEC (except family planning and mental health centers)
6215	Medical and Diagnostic Laboratories			
62151	Medical and Diagnostic Laboratories	R	*8071	Medical Laboratories (except diagnostic imaging centers)
621511	Medical Laboratories	N	*8071	Medical Laboratories (diagnostic imaging centers)
621512	Diagnostic Imaging Centers			
6216	Home Health Care Services	E	8082	Home Health Care Services (home health agencies)
62161	Home Health Care Services			
6219	Other Ambulatory Health Care Services	N	*4119	Local Passenger Transportation, NEC (land ambulance)
62191	Ambulance Services		*4522	Air Transportation, Nonscheduled (air ambulance)

62199	All Other Ambulatory Health Care Services				
621991	Blood and Organ Banks	N	*8099	Health and Allied Services, NEC (blood and organ banks)	
621999	All Other Miscellaneous Ambulatory Health Care Services	N	*8099	Health and Allied Services, NEC (except blood and organ banks, medical artists, medical photography, and childbirth preparation classes)	
622	Hospitals				
6221	General Medical and Surgical Hospitals	R	8062	General Medical and Surgical Hospitals	
62211	General Medical and Surgical Hospitals		*8069	Specialty Hospitals, Except Psychiatric (childrens' hospitals)	
6222	Psychiatric and Substance Abuse Hospitals	R	8063	Psychiatric Hospitals	
62221	Psychiatric and Substance Abuse Hospitals		*8069	Specialty Hospitals, Except Psychiatric (substance abuse hospitals)	
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals				
62231	Specialty (except Psychiatric and Substance Abuse) Hospitals	R	*8069	Specialty Hospitals, Except Psychiatric (except childrens' and substance abuse hospitals)	
623	Nursing and Residential Care Facilities				
6231	Nursing Care Facilities	N	*8051	Skilled Nursing Care Facilities (except continuing care retirement communities)	
62311	Nursing Care Facilities		*8052	Intermediate Care Facilities (except continuing care retirement communities and mental retardation facilities)	
			*8059	Nursing and Personal Care Facilities, NEC (except continuing care retirement communities)	
6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities	N	*8052	Intermediate Care Facilities (mental retardation facilities)	
62321	Residential Mental Retardation Facilities	N	*8361	Residential Care (mental health and substance abuse facilities)	
62322	Residential Mental Health and Substance Abuse Facilities				
6233	Community Care Facilities for the Elderly				
62331	Community Care Facilities for the Elderly	N	*8051	Skilled Nursing Care Facilities (continuing care retirement communities)	
623311	Continuing Care Retirement Communities		*8052	Intermediate Care Facilities (continuing care retirement communities)	
			*8059	Nursing and Personal Care Facilities, NEC (continuing care retirement communities)	
623312	Homes for the Elderly	N	*8361	Residential Care (homes for the elderly)	
6239	Other Residential Care Facilities	N			
62399	Other Residential Care Facilities		*8361	Residential Care (except mental health and substance abuse facilities, homes for the elderly)	
624	Social Assistance				
6241	Individual and Family Services	N	*8322	Individual and Family Social Services (child and youth services)	
62411	Child and Youth Services				

62412	Services for the Elderly and Persons with Disabilities	N	*8641	Civic, Social, and Fraternal Organizations (youth development organizations)
62419	Other Individual and Family Services	N	*8322	Individual and Family Social Services (services for the elderly and disabled)
6242	Community Food and Housing, and Emergency and Other Relief Services		*8322	Individual and Family Social Services (except services for children, youth, elderly, disabled, food, housing, emergency and relief)
62421	Community Food Services	N	*8322	Individual and Family Social Services (food services)
62422	Community Housing Services	N	*8322	Individual and Family Social Services (temporary shelter)
624221	Temporary Shelter	N	*8322	Individual and Family Social Services (housing services except temporary shelter)
624229	Other Community Housing Services	N	*8322	Individual and Family Social Services (emergency and relief services)
62423	Emergency and Other Relief Services			
6243	Vocational Rehabilitation Services	E	8331	Job Training and Vocational Rehabilitation Services
62431	Vocational Rehabilitation Services			
6244	Child Day Care Services	R	8351	Child Day Care Services
62441	Child Day Care Services		*7299	Miscellaneous Personal Services, NEC (babysitting)
71	Arts, Entertainment and Recreation			
711	Performing Arts, Spectator Sports and Related Industries			
7111	Performing Arts Companies			
71111	Theater Companies and Dinner Theaters	N	*5812	Eating Places (dinner theaters)
71112	Dance Companies	N	*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theater companies, opera companies)
71113	Musical Groups and Artists	N	*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (ballet and dance companies)
71119	Other Performing Arts Companies	N	*7929	Bands, Orchestras, Actors, and Entertainment Groups (musical groups and artists and orchestras)
7112	Spectator Sports		*7929	Bands, Orchestras, Actors, and Entertainment Groups, (except musical groups, artists, actors, and actresses)
71121	Spectator Sports		*7999	Amusement and Recreation Services, NEC (circus companies)
711211	Sports Teams and Clubs	N	*7941	Professional Sports Clubs and Promoters (professional sports clubs)
711212	Race Tracks	N	*7948	Racing, Including Track Operations (track operations)
711219	Other Spectator Sports	N	*7941	Professional Sports Clubs and Promoters (except sports clubs, stadium operators, sports promoters and agents)
			*7948	Racing, Including Track Operations (except track operators)
			*7999	Amusement and Recreation Services, NEC (professional athletes)

7113	Promoters of Performing Arts, Sports and Similar Events			
71131	Promoters of Performing Arts, Sports and Similar Events with Facilities	N	*6512	Operators of Nonresidential Buildings (stadium and arena owners)
			*7922	Theatrical Procedures (Except Motion Pictures) and Miscellaneous Theatrical Services (theater operators)
			*7941	Professional Sports Clubs and Promoters (stadium operators)
71132	Promoters of Performing Arts, Sports and Similar Events without Facilities	N	*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theatrical promoters)
			*7941	Professional Sports Clubs and Promoters (sports promoters)
7114	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures			
71141	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	N	*7389	Business Services, NEC (agents and brokers for authors and artists)
			*7922	Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (theatrical agents)
			*7941	Professional Sports Clubs and Promoters (sports agents)
7115	Independent Artists, Writers, and Performers			
71151	Independent Artists, Writers, and Performers	N	*7819	Services Allied to Motion Picture Production (film directors and related motion picture production services, independent)
			*7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Services (actors and actresses)
			*8999	Services, NEC (authors, artists, and related technical services independent)
712	Museums, Historical Sites and Similar Institutions			
7121	Museums, Historical Sites and Similar Institutions			
71211	Museums	R	*8412	Museums and Art Galleries (except historic and heritage sites)
71212	Historical Sites	N	*8412	Museums and Art Galleries (historic and heritage sites)
71213	Zoos and Botanical Gardens	R	*8422	Arborea and Botanical and Zoological Gardens (except nature parks and reserves)
			*7999	Amusement and Recreation Services, NEC (caverns and miscellaneous commercial parks)
71219	Nature Parks and Other Similar Institutions	N	*8422	Arborea and Botanical and Zoological Gardens (nature parks and reserves)
			*0921	Fish Hatcheries and Preserves
713	Amusement, Gambling and Recreation Industries			
7131	Amusement Parks and Arcades			
71311	Amusement and Theme Parks	E	7996	Amusement Parks
71312	Amusement Arcades	R	*7993	Coin-Operated Amusement Devices (amusement arcades)
7132	Gambling Industries			
71321	Casinos (except Casino Hotels)	N	*7999	Amusement and Recreation Services, NEC (casinos, except hotel casinos)

71329	Other Gambling Industries	N	*7993 Coin-Operated Amusement Devices (slot machine operators) *7999 Amusement and Recreation Services, NEC (lottery, bingo, bookie, and other gambling operations)
7139	Other Amusement and Recreation Industries	N	7992 Public Golf Courses
71391	Golf Courses and Country Clubs	N	*7997 Membership Sports and Recreation Clubs (golf clubs)
71392	Skiing Facilities	N	*7999 Amusement and Recreation Services, NEC (skiing facilities)
71393	Marinas	E	4493 Marinas
71394	Fitness and Recreational Sports Centers	N	7991 Physical Fitness Facilities *7997 Membership Sports and Recreation Clubs (recreation clubs with facilities)
71395	Bowling Centers	E	*7999 Amusement and Recreation Services, NEC (nonmembership recreation facilities)
71399	All Other Amusement and Recreation Industries	N	7933 Bowling Centers *7911 Dance Studios, Schools, and Halls (except instruction) *7993 Amusement and Recreation Services, NEC (except amusement arcades and slot machine operators) *7997 Membership Sports and Recreation Clubs (recreation clubs without facilities) *7999 Amusement and Recreation Services, NEC (except circuses, professionals, athletes, caverns and other commercial parks, skiing facilities, casinos and other gambling operations, amusement and recreation facilities, sports instruction, sports equipment rental, ticket agencies, and amusement or scenic transport operations)
72	Accommodation and Food Services		
721	Accommodation		
7211	Traveler Accommodation		
72111	Hotels (except Casino Hotels) and Motels	R	*7011 Hotels and Motels (hotels and motels, except casino hotels) *7041 Organization Hotels and Lodging Houses, on Membership Basis (hotels)
72112	Casino Hotels	N	*7011 Hotels and Motels (casino hotels)
72119	Other Traveler Accommodations		
721191	Bed and Breakfast Inns	N	*7011 Hotels and Motels (bed and breakfast inns)
721199	All Other Traveler Accommodations	N	*7011 Hotels and Motels (except hotels, motels and bed and breakfast inns)
7212	RV (Recreational Vehicle) Parks and Recreational Camps		
72121	RV (Recreational Vehicle) Parks and Recreational Camps	E	7033 Recreational Vehicle Parks and Campgrounds
721211	RV (Recreational Vehicle) Parks and Campgrounds	E	7032 Sporting and Recreational Camps
721214	Recreational and Vacation Camps		
7213	Rooming and Boarding Houses		
72131	Rooming and Boarding Houses	R	7021 Rooming and Boarding Houses

	*7041	Organization Hotels and Lodging Houses, on Membership Basis (except hotels)	

8112	Electronic and Precision Equipment Repair and Maintenance			*7549	Automotive Services, Except Repair and Carwashes (except lubricating and towing)
81121	Electronic and Precision Equipment Repair and Maintenance				
811211	Consumer Electronics Repair and Maintenance	N		*7622	Radio and Television Repair Shops (stereo, TV, VCR, and radio)
				*7629	Electrical and Electronic Repair Shops, NEC (consumer equipment except computer, TV, stereo, VCR, and radio)
811212	Computer and Office Machine Repair and Maintenance	N		*7378	Computer Maintenance and Repair (except sales location, providing supporting repair services as major source of revenue)
				*7629	Electrical and Electronic Repair Shops, NEC (business and office machine repair, electrical)
				*7699	Repair Shops and Related Services, NEC (typewriter repair)
811213	Communication Equipment Repair and Maintenance	N		*7622	Radio and Television Repair Shops (telecommunication equipment repair)
				*7629	Electrical and Electronic Repair Shops, NEC (telephone set repair)
811219	Other Electronic and Precision Equipment Repair and Maintenance	N		*7629	Electrical and Electronic Repair Shops, NEC (electrical measuring instrument repair and calibration, medical equipment repair, electrical)
				*7699	Repair Shops and Related Services, NEC (dental instrument repair, laboratory instrument repair, medical equipment and other electronic and precision equipment repair, except typewriters)
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance			*7699	Repair Shops and Related Services, NEC (other non-automotive transportation equipment and industrial machines and equipment)
81131	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	R		*7623	Refrigerator and Air-Conditioning Service and Repair Shops (commercial refrigerator equipment repair)
				*7694	Armature Rewinding Shops (repair)
				*5085	Industrial Supplies (reconditioning barrels and drums)
8114	Personal and Household Goods Repair and Maintenance				
81141	Home and Garden Equipment and Appliance Repair and Maintenance				
811411	Home and Garden Equipment Repair and Maintenance	N		*7699	Repair Shops and Related Services, NEC (lawnmower repair shops, sharpening and repairing knives, saws and tools)
				*7623	Refrigeration and Air-Conditioning Service and Repair Shops (except commercial)
811412	Appliance Repair and Maintenance	N		*7629	Electrical and Electronic Repair Shops, NEC (appliance repair, electrical; washing machine repair, electric razor repair)

81142	Reupholstery and Furniture Repair	E	*7699	Repairs Shops and Related Services, NEC (gas appliance repair service, sewing machine repair, stove repair shops, and other non-electrical appliance)
81143	Footwear and Leather Goods Repair	R	7641	Reupholstery and Furniture Repair
			7251	Shoe Repair and Shoeshine Parlors
			*7699	Repair Shops and Related Services (leather goods repair shops, luggage repair shops, pocketbook repair shops)
81149	Other Personal and Household Goods Repair and Maintenance	N	*3732	Boat Building and Repairing (pleasure boat repair)
			*7219	Laundry and Garment Services, NEC (alteration and repair)
			7631	Watch, Clock, and Jewelry Repair
			7692	Welding Repair
			*7699	Repair Shops and Related Services, NEC (except industrial, electronic, home and garden, appliance, and leather goods)
812	Personal and Laundry Services			
8121	Personal Care Services			
81211	Hair, Nail, and Skin Care Services			
812111	Barber Shops	R	*7241	Barber Shops (except barber colleges)
812112	Beauty Salons	R	*7231	Beauty Shops (except beauty and cosmetology schools and manicure and pedicure salons)
812113	Nail Salons	N	*7231	Beauty Shops (manicure and pedicure salons)
81219	Other Personal Care Services			
812191	Diet and Weight Reducing Centers	N	*7299	Miscellaneous Personal Services, NEC (diet and weight reducing services)
812199	Other Personal Care Services			
8122	Funeral Services	N	*7299	Miscellaneous Personal Services, NEC, (personal care services)
81221	Funeral Homes			
81222	Cemeteries and Crematories	R	*7261	Funeral Services and Crematories (funeral homes and services)
		R	*6531	Real Estate Agents and Managers (cemetery management)
			6553	Cemetery Subdividers and Developers
			*7261	Funeral Services and Crematories (except funeral homes)
8123	Laundry Services			
81231	Coin-Operated Laundries and Drycleaners	E	7215	Coin-Operated Laundry and Drycleaning
81232	Drycleaning and Laundry Services (except Coin-Operated)			
812321	Laundries, Family and Commercial	E	7211	Power Laundries, Family and Commercial
812322	Drycleaning Plants	E	7216	Drycleaning Plants, Except Rug Cleaning
81233	Linen and Uniform Supply			
812331	Linen Supply	R	7213	Linen Supply
			*7219	Laundry and Garment Services, NEC, (diaper service)
812332	Industrial Launderers	E	7218	Industrial Launderers
81239	Other Laundry Services			

812391	Garment Pressing, and Agents for Laundries	E	7212	Garment Pressing and Agents for Laundries
812399	All Other Laundry Services	R	*7219	Laundry and Garment Services, NEC (except diaper service and clothing alteration and repair)
8129	Other Personal Services	R	*0752	Animal Specialty Services, Except Veterinary (pet care services, except veterinary)
81291	Pet Care (except Veterinary) Services			
81292	Photo Finishing	N	*7384	Photofinishing Laboratories (except one-hour)
812921	Photo Finishing Laboratories (except One-Hour)	N	*7384	Photofinishing Laboratories (one-hour)
812922	One-Hour Photo Finishing	E	7521	Automobile Parking
81293	Parking Lots and Garages	R	*7299	Miscellaneous Personal Services, NEC (except diet and weight reducing services, personal care services, and formal wear and costume rental service)
81299	All Other Personal Services		*7389	Miscellaneous Business Services (bail handling)
813	Religious, Grantmaking, Civic, and Professional and Similar Organizations	E	8661	Religious Organizations
8131	Religious Organizations			
81311	Religious Organizations			
8132	Grantmaking and Giving Services	R	6732	Educational, Religious, and Charitable Trust
81321	Grantmaking and Giving Services	N	*8399	Social Services, NEC (grantmaking foundations)
813211	Grantmaking Foundations	N	*8399	Social Services, NEC (voluntary health organizations)
813212	Voluntary Health Organizations		*8399	Social Services, NEC (except grantmaking foundations and voluntary health organizations)
813219	Other Grantmaking and Giving Services			
8133	Social Advocacy Organizations	N	*8399	Social Services, NEC (human rights organizations and )
81331	Social Advocacy Organizations	N	*8399	Social Services, NEC (environment, conservation, and wildlife advocacy)
813311	Human Rights Organizations		*8699	Membership Organizations, NEC (humane societies)
813312	Environment, Conservation and Wildlife Organizations		*8399	Social Services, NEC (except human rights, environment, conservation and wildlife organizations, grantmaking and giving, and voluntary health organizations)
813319	Other Social Advocacy Organizations			
8134	Civic and Social Organizations	N	*8641	Civic, Social, and Fraternal Organizations (except condominium and homeowner associations, and youth development organizations)
81341	Civic and Social Organizations		*8699	Membership Organizations, NEC (farm granges)
8139	Professional and Other Organizations	R	8611	Business Associations
81391	Business Associations		*8699	Membership Organizations, NEC (farm business organizations)

81392	Professional Organizations				
81393	Labor Unions and Similar Labor Organizations				8621 Professional Membership Organizations
81394	Political Organizations				8631 Labor Unions and Similar Labor Organizations
81399	Other Similar Organizations				8651 Political Organizations
					*6531 Real Estate Agents and Managers (condominium associations)
					*8641 Civic, Social, and Fraternal Organizations (condominium and homeowner associations)
					*8699 Membership Organizations, NEC (except farm business organizations, farm granges, and environmental, conservation, and wildlife organizations)
814	Private Households				
8141	Private Households				
81411	Private Households				8811 Private Households
92	Public Administration				Public Administration
921	Executive, Legislative, Public Finance and General Government				
9211	Executive, Legislative, Public Finance and General Government				
92111	Executive Offices				9111 Executive Offices
92112	Legislative Bodies				9121 Legislative Bodies
92113	Public Finance				9311 Public Finance, Taxation, and Monetary Policy
92114	Executive and Legislative Offices, Combined				9131 Executive and Legislative Office, Combined
92115	American Indian and Alaska Native Tribal Governments				*8641 Civic, Social, and Fraternal Organizations (pt) (Indian Tribal Councils)
92119	All Other General Government				9199 General Government, NEC
922	Justice, Public Order, and Safety				
9221	Justice, Public Order, and Safety				
92211	Courts				9211 Courts
92212	Police Protection				9221 Police Protection
92213	Legal Counsel and Prosecution				9222 Legal Counsel and Prosecution
92214	Correctional Institutions				9223 Correctional Institutions
92215	Parole Offices and Probation Offices				*8322 Individual and Family Social Services (parole and probation offices)
92216	Fire Protection				9224 Fire Protection
92219	All Other Justice, Public Order, and Safety				9229 Public Order and Safety, NEC
923	Administration of Human Resource Programs				
9231	Administration of Human Resource Programs				
92311	Administration of Education Programs				9411 Administration of Educational Programs
92312	Administration of Public Health Programs				9431 Administration of Public Health Programs

92313	Administration of Social, Human Resource and Income Maintenance Programs	E	9441	Administration of Social, Human Resource and Income Maintenance Programs
92314	Administration of Veteran's Affairs	E	9451	Administration of Veteran's Affairs, Except Health Insurance
924	Administration of Environmental Quality Programs			
9241	Administration of Environmental Quality Programs			
92411	Air and Water Resource and Solid Waste Management	E	9511	Air and Water Resource and Solid Waste Management
92412	Land, Mineral, Wildlife, and Forest Conservation	E	9512	Land, Mineral, Wildlife, and Forest Conservation
925	Administration of Housing Programs, Urban Planning, and Community Development			
9251	Administration of Housing Programs, Urban Planning, and Community Development			
92511	Administration of Housing Programs	E	9531	Administration of Housing Programs
92512	Administration of Urban Planning and Community and Rural Development	E	9532	Administration of Urban Planning and Community and Rural Development
926	Administration of Economic Programs			
9261	Administration of Economic Programs	E		
92611	Administration of General Economic Programs	E	9611	Administration of General Economic Programs
92612	Regulation and Administration of Transportation Programs	R	9621	Regulations and Administration of Transportation Programs (except air traffic control)
92613	Regulation and Administration of Communications, Electric, Gas, and Other Utilities	E	9631	Regulation and Administration of Communications, Electric, Gas, and Other Utilities
92614	Regulation of Agricultural Marketing and Commodities	E	9641	Regulation of Agricultural Marketing and Commodities
92615	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors	E	9651	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors
927	Space Research and Technology			
9271	Space Research and Technology	E	9661	Space Research and Technology
92711	Space Research and Technology			
928	National Security and International Affairs			
9281	National Security and International Affairs			
92811	National Security	E	9711	National Security
92812	International Affairs	E	9721	International Affairs
99	Unclassified Establishments			
999	Unclassified Establishments			
9999	Unclassified Establishments	E	9999	Nonclassifiable Establishments

The definitions of status codes are as follows: E--existing industry; N--new industry; R--revised industry; and \* means "part of". The abbreviation NEC is used for Not Elsewhere Classified.

Table 2 - 1987 SIC Compared to 1997 NAICS

1987 SIC code	1987 SIC description	NAICS code	1997 U.S. description
0111	Wheat	11114	Wheat Farming
0112	Rice	11116	Rice Farming
0115	Corn	11115	Corn Farming (pt)
0116	Soybeans	11111	Soybean Farming
0119	Cash Grains, NEC		
	Dry Pea and Bean Farms	11113	Dry Pea and Bean Farming
	Oilseed, Except Soybean, Farms	11112	Oilseed (except Soybean) Farming
	Popcorn Farms	11115	Corn Farming (pt)
	Combination Oilseed and Grain Farms	111191	Oilseed and Grain Combination Farming
	Other Farms	111199	All Other Grain Farming
0131	Cotton	11192	Cotton farming
0132	Tobacco	11191	Tobacco Farming
0133	Sugarcane and Sugar Beets		
	Sugar Beets	111991	Sugar Beet Farming
	Sugarcane	11193	Sugarcane Farming
0134	Irish Potatoes	111211	Potato Farming
0139	Field Crops, Except Cash Grains, NEC		
	Hay Farms	11194	Hay Farming
	Peanut Farming	111992	Peanut Farming
	Sweet Potatoes and Yams	111219	Other Vegetable (except Potato) and Melon Farming (pt)
	Other Field Crop Farms	111998	All Other Miscellaneous Crop Farming (pt)

0161	Vegetables and Melons	111219	Other Vegetable (except Potato) and Melon Farming (pt)
0171	Berry Crops		
	Strawberry Farms	111333	Strawberry Farming
	Other Berry Farms	111334	Berry (except Strawberry) Farming
0172	Grapes	111332	Grape Vineyards
0173	Tree Nuts	111335	Tree Nut Farming
0174@	Citrus Fruits		
	Orange Groves and Farms	11131	Orange Groves
	Other Citrus Groves and Farms	11132	Citrus (except Orange) Groves
0175	Deciduous Tree Fruits		
	Apple Orchard and Farms	111331	Apple Orchards
	Other Farms	111339	Other Noncitrus Fruit Farming (pt)
0179@	Fruits and Tree Nuts, NEC		
	Combination Fruit and Tree Nut Farms	111336	Fruit and Tree Nut Combination Farming
	Other Farms	111339	Other Noncitrus Fruit Farming (pt)
0181@	Ornamental Floriculture and Nursery Products		
	Floriculture Farming	111422	Floriculture Production
	Nursery Farming	111421	Nursery and Tree Production (pt)
0182	Food Crops Grown Under Cover		
	Mushroom, Growing Of	111411	Mushroom Production
	Other Food Crops Grown Under Cover	111419	Other Food Crops Grown Under Cover
0191@	General Farms, Primarily Crop	111998	All Other Miscellaneous Crop Farming (pt)
0211	Beef Cattle Feedlots	112112	Cattle Feedlots
0212	Beef Cattle, Except Feedlots	112111	Beef Cattle Ranching and Farming (pt)

0213	Hogs	11221	Hog and Pig Farming
0214	Sheep and Goats		
	Sheep Farms	11241	Sheep Farming
	Goat Farms	11242	Goat Farming
0219@	General Livestock, Except Dairy and Poultry	11299	All Other Animal Production (pt)
0241	Dairy Farms		
	Dairy Heifer Replacement Farms	11211	Beef Cattle Ranching and Farming (pt)
	Dairy Farms	11212	Dairy Cattle and Milk Production
0251	Broiler, Fryers, and Roaster Chickens	11232	Broilers and Other Meat-Type Chicken Production
0252	Chicken Eggs	11231	Chicken Egg Production
0253	Turkey and Turkey Eggs	11233	Turkey Production
0254	Poultry Hatcheries	11234	Poultry Hatcheries
0259	Poultry and Eggs, NEC	11239	Other Poultry Production
0271	Fur-Bearing Animals and Rabbits	11293	Fur-bearing Animal and Rabbit Production
0272	Horses and Other Equines	11292	Horse and Other Equine Production
0273	Animal Aquaculture		
	Finfish Farming	112511	Finfish Farming and Fish Hatcheries (pt)
	Shellfish Farming	112512	Shellfish Farming
	Other Animal Aquaculture	112519	Other Animal Aquaculture (pt)
0279@	Animal Specialties, NEC		
	Apiculture	11291	Apiculture
	Other	11299	All Other Animal Production (pt)
0291@	General Farms, Primarily Livestock and Animal Specialties	11299	All Other Animal Production (pt)
0711	Soil Preparation Services	115112	Soil Preparation, Planting and Cultivating (pt)

0721	Crop Planting, Cultivating and Protecting				
	Crop Dusting When Combined With a Variety of Aircraft-Based Services	48122			Nonscheduled Speciality Air Transportation (pt)
	Other				
0722	Crop Harvesting, Primarily by Machine	115112			Soil Preparation, Planting and Cultivating (pt)
0723	Crop Preparation Services For Market, except Cotton Ginning	115113			Crop Harvesting, Primarily By Machine
0724	Cotton Ginning	115114			Postharvest Crop Activities (except Cotton Ginning)
0741	Veterinary Service For Livestock	115111			Cotton Ginning
0742	Veterinary Services for Animal Specialties	54194			Veterinary Services(pt)
0751@	Livestock Services, Except Veterinary	54194			Veterinary Services (pt.)
	Custom Slaughtering	311611			Animal (except Poultry) Slaughtering (pt)
	Other Livestock Service, Except Veterinary	11521			Support Activities for Animal Production (pt)
0752@	Animal Specialty Services, Except Veterinary				
	Horses and Equines Services and Animal Production Breeding	11521			Support Activities for Animal Production (pt)
	Pet Care Services	81291			Pet Care (except Veterinary) Services
0761	Farm Labor Contractors and Crew Leaders	115115			Farm Labor Contractors and Crew Leaders
0762	Farm Management Services	115116			Farm Management Services
0781	Landscape Counseling and Planning				
	Horticulture Consulting	54162			Environmental Consulting
	Landscape Architectural Services	54132			Landscape Architectural Services
0782	Lawn and Garden Services	56173			Landscaping Services (pt)
0783	Ornamental Shrub and Tree Services	56173			Landscaping Services (pt)
0811@	Timber Tracts				
	Short Rotation Woody Crops	111421			Nursery and Tree Production (pt)
	Long Term Timber Farming	11311			Timber Tract Operations

0831@	Forest Nurseries and Gathering of Forest Products			
	Maple Sap	111998		All Other Miscellaneous Crop Farming (pt)
	Other Forest Products	11321		Forest Nurseries and Gathering of Forest Products
0851	Forestry Services			
	Aerial forest fighting when combined with a variety of aircraft-based services	48122		Nonscheduled Speciality Air Transportation (pt)
	Other Forestry Services	11531		Support Activities for Forestry
0912	Finfish	114111		Finfish Fishing
0913	Shellfish	114112		Shellfish Fishing
0919	Miscellaneous Marine Products			
	Except Plant Aquaculture	114119		Other Marine Fishing
	Plant Aquaculture	111998		All Other Miscellaneous Crop Farming (pt)
0921@	Fish Hatcheries and Preserves			
	Finfish Hatcheries	112511		Finfish Farming and Fish Hatcheries (pt)
	Shellfish Hatcheries	112512		Shellfish Farming (pt)
	Fish Preserves	71219		Nature Parks and Other Similar Institutions (pt)
0971	Hunting, Trapping, and Game Propagation	11421		Hunting and Trapping
1011	Iron Ores	21221		Iron Mining
1021	Copper Ores	212234		Copper and Nickel Mining (pt.)
1031	Lead and Zinc Ores	212231		Lead and Zinc Mining
1041	Gold Ores	212221		Gold Mining
1044	Silver Ores	212222		Silver Mining
1061	Ferroalloy Ores, Except Vanadium			
	Nickel Ore Mining	212234		Copper and Nickel Mining (pt.)
	Other Ferroalloys (except nickel)	212299		Other Metal Ore Mining (pt)

1081	Metal Mining Services			
	Metal Mining (except geophysical surveying)	213115	Support Activities for Metal Mining	
	Geophysical Surveying	54136	Geophysical Surveying and Mapping Services (pt)	
1094	Uranium-Radium-Vanadium Ores	212291	Uranium-Radium-Vanadium Ore Mining	
1099	Miscellaneous Metal Ores, NEC	212299	Other Metal Ore Mining (pt)	
1221	Bituminous Coal and Lignite Surface Mining	212111	Bituminous Coal and Lignite Surface Mining	
1222	Bituminous Coal Underground Mining	212112	Bituminous Coal Underground Mining	
1231	Anthractite Mining	212113	Anthractite Mining	
1241	Coal Mining Services	213114	Support Activities for Coal Mining	
1311	Crude Petroleum and Natural Gas	211111	Crude Petroleum and Natural Gas Extraction	
1321	Natural Gas Liquids	211112	Natural Gas Liquid Extraction	
1381	Drilling Oil and Gas Wells	213111	Drilling Oil and Gas Wells	
1382	Oil and Gas Field Exploration Services			
	Aerial geophysical exploration combined with a variety of aircraft-based services	48122	Nonscheduled Speciality Air Transportation (pt)	
	Geophysical Mapping and Surveying	54136	Geophysical Surveying and Mapping Services (pt)	
	Other Oil and Gas Field Exploration Services	213112	Support Activities for Oil and Gas Field Exploration	
1389	Oil and Gas Field Services, NEC	213113	Other Oil and Gas Field Support Activities	
1411	Dimension Stone	212311	Dimension Stone Mining and Quarry	
1422	Crushed and Broken Limestone	212312	Crushed and Broken Limestone Mining and Quarrying	
1423	Crushed and Broken Granite	212313	Crushed and Broken Granite Mining and Quarrying	
1429	Crushed and Broken Stone, NEC	212319	Other Crushed and Broken Stone Mining and Quarrying (pt)	
1442	Construction Sand and Gravel	212321	Construction Sand and Gravel Mining	
1446	Industrial Sand	212322	Industrial Sand Mining	
1455	Kaolin and Ball Clay	212324	Kaolin and Ball Clay Mining	

1459	Clay, Ceramic, and Refractory Minerals, NEC	212325	Clay and Ceramic and Refractory Minerals Mining
1474	Potash, Soda, and Borate Minerals	212391	Potash, Soda, and Borate Mineral Mining
1475	Phosphate Rock	212392	Phosphate Rock Mining
1479	Chemical and Fertilizer Mineral Mining, NEC	212393	Other Chemical and Fertilizer Mineral Mining
1481	Nonmetallic Minerals Services Except Fuels		
	Nonmetallic Minerals Services, except fuels (except geophysical surveying)	213116	Support Activities for Non-metallic Minerals, (except Fuels)
	Geophysical Surveying Services	54136	Geophysical Surveying and Mapping Services (pt)
1499	Miscellaneous Nonmetallic Minerals, Except Fuels		
	Bituminous Limestone and Bituminous Sandstone	212319	Other Crushed and Broken Stone Mining or Quarrying (pt)
	Except Bituminous Limestone and Bituminous Sandstone	212399	All Other Non-Metallic Mineral Mining
1521@	General Contractors-Single-Family Houses	23321	Single-Family Housing Construction (pt)
1522@	General Contractors-Residential Buildings, Other Than Single-Family		
	Hotel and Motel Construction	23332	Commercial and Institutional Building Construction (pt)
	Except Hotel and Motel Construction	23322	Multi-Family Housing Construction (pt)
1531@	Operative Builders		
	Single-Family Housing	23321	Single-Family Housing Construction (pt)
	Multi-Family Housing	23322	Multi-Family Housing Construction (pt)
	Manufacturing and Light Industrial Buildings	23331	Manufacturing and Light Industrial Building Construction (pt)
	Commercial and Institutional Buildings	23332	Commercial and Institutional Building Construction (pt)
1541@	General Contractors-Industrial Buildings and Warehouses		
	Warehouse Construction	23332	Commercial and Institutional Building Construction (pt)
	Except Warehouse Construction	23331	Manufacturing and Light Industrial Building Construction (pt)
1542@	General Contractors-Nonresidential Buildings, Other than Industrial Buildings and Warehouses	23332	Commercial and Institutional Building Construction (pt)

1611	Highway and Street Construction, Except Elevated Highways	23411	Highway and Street Construction
1622	Bridge, Tunnel, and Elevated Highway Construction	23412	Bridge and Tunnel Construction
1623	Water, Sewer, Pipeline, and Communications and Power Line Construction		
	Water, Sewer and Pipelines	23491	Water, Sewer and Pipeline Construction
	Power and Communication Transmission Lines	23492	Power and Communication Transmission Line Construction
1629	Heavy Construction, NEC		
	Industrial Nonbuilding Structures Construction	23493	Industrial Nonbuilding Structure Construction
	Except Industrial Nonbuilding Structures Construction	23499	All Other Heavy Construction
1711	Plumbing, Heating, and Air-Conditioning	23511	Plumbing, Heating and Air-Conditioning Contractors
1721@	Painting and Paper Hanging	23521	Painting and Wall Covering Contractors (pt)
1731@	Electrical Work		
	Burglar and Fire Alarm Installation	561621	Security Systems Services (except Locksmiths) (pt)
	Except Burglar and Fire Alarm Installation	23531	Electrical Contractors
1741	Masonry, Stone Setting and Other Stone Work	23541	Masonry and Stone Contractors
1742	Plastering, Drywall, Acoustical and Insulation Work	23542	Drywall, Plastering, Acoustical and Insulation Contractors (pt)
1743	Terrazzo, Tile, Marble, and Mosaic Work		
	Fresco Work	23542	Drywall, Plastering, Acoustical and Insulation Contractors (pt)
	Except Fresco Work	23543	Tile, Marble, Terrazzo and Mosaic Contractors
1751	Carpentry Work	23551	Carpentry Contractors
1752	Floor Laying and Other Floor Work, NEC	23552	Floor Laying and Other Floor Contractors
1761	Roofing, Siding, and Sheet Metal Work	23561	Roofing, Siding, and Sheet Metal Contractors
1771@	Concrete Work		
	Stucco Construction	23542	Drywall, Plastering, Acoustical and Insulation Contractors (pt)
	Except Stucco Construction	23571	Concrete Contractors

1781	Water Well Drilling	23581	Water Well Drilling Contractors
1791	Structural Steel Erection	23591	Structural Steel Erection Contractors
1793	Glass and Glazing Work	23592	Glass and Glazing Contractors (pt)
1794	Excavation Work	23593	Excavation Contractors
1795	Wrecking and Demolition Work	23594	Wrecking and Demolition Contractors
1796	Installation or Erection of Building Equipment, NEC	23595	Building Equipment and Other Machinery Installation Contractors
1799@	Special Trade Contractors, NEC		
	Paint and Wallpaper Stripping and Wallpaper Removal Contractors	23521	Painting and Wall Covering Contractors (pt)
	Tinted Glass Work	23592	Glass and Glazing Contractors (pt)
	All Other Special Trade Contractors	23599	All Other Special Trade Contractors (pt)
2011	Meat Packing Plants	311611	Animal (except Poultry) Slaughtering (pt)
2013@	Sausages and Other Prepared Meats		
	Meat Processing	311612	Meat Processed From Carcasses (pt)
	Lard	311613	Rendering and Meat By-product Processing (pt)
2015@	Poultry Slaughtering and Processing		
	Poultry Processing	311615	Poultry Processing
	Egg Processing	311999	All Other Miscellaneous Food Manufacturing (pt)
2021	Creamery Butter	311512	Creamery Butter Manufacturing
2022	Natural, Processed, and Imitation Cheese	311513	Cheese Manufacturing
2023	Dry, Condensed, and Evaporated Dairy Products	311514	Dry, Condensed, and Evaporated Milk Manufacturing
2024	Ice Cream and Frozen Desserts	31152	Ice Cream and Frozen Dessert Manufacturing
2026	Fluid Milk	311511	Fluid Milk Manufacturing
2032	Canned Specialties		
	Canned Specialties	311422	Specialty Canning

2033@	Canned Pudding	311999	All Other Miscellaneous Food Manufacturing (pt)
2034	Canned Fruits, Vegetables, Preserves, Jams, and Jellies	311421	Fruit and Vegetable Canning (pt)
	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes		
	Dried and Dehydrated Fruit, Vegetable, and Soup Mixes	311423	Dried and Dehydrated Food Manufacturing (pt)
	Vegetable Flours	311211	Flour Milling (pt)
2035	Pickled Fruits and Vegetables, Vegetables Sauces and Seasonings, and Salad Dressings		
	Pickled Fruits and Vegetables	311421	Fruit and Vegetable Canning (pt)
	Sauces and Salad Dressings	311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (pt)
2037	Frozen Fruits, Fruit Juices, and Vegetables	311411	Frozen Fruit, Juice, and Vegetable Processing
2038	Frozen Specialties, NEC	311412	Frozen Specialty Food Manufacturing
2041	Flour and Other Grain Mill Products	311211	Flour Milling (pt)
2043	Cereal Breakfast Foods		
	Coffee Substitute	31192	Coffee and Tea Manufacturing (pt)
	Breakfast Cereal	31123	Breakfast Cereal Manufacturing
2044	Rice Milling	311212	Rice Milling
2045	Prepared Flour Mixes and Doughs	311822	Flour Mixes and Dough Manufacturing from Purchased Flour
2046	Wet Corn Milling	311221	Wet Corn Milling
2047	Dog and Cat Food	311111	Dog and Cat Food Manufacturing
2048	Prepared Feed and Feed Ingredients for Animals and Fowls, Except Dogs and Cats		
	Animal Slaughtering for Pet Food	311611	Animal (except Poultry) Slaughtering (pt)
	Except Slaughtering Animals for Pet Food	311119	Other Animal Food Manufacturing
2051	Bread and Other Bakery Products, Except Cookies and Crackers	311812	Commercial Bakeries (pt)
2052@	Cookies and Crackers		

	Cookie and Cracker	311821	Cookie and Cracker Manufacturing
	Pretzels	311919	Other Snack Food Manufacturing (pt)
	Unleavened Bread	311812	Commercial Bakeries (pt)
2053	Frozen Bakery Products, Except Bread	311813	Frozen Bakery Product Manufacturing
2061	Cane Sugar, Except Refining	311311	Sugarcane Mills
2062	Cane Sugar Refining	311312	Cane Sugar Refining
2063	Beet Sugar	311313	Beet Sugar Manufacturing
2064@	Candy and Other Confectionery Products		
	Chocolate Confectionery	31133	Confectionery Manufacturing from Purchased Chocolate
	Non-Chocolate Confectionery Manufacturing	31134	Non-Chocolate Confectionery Manufacturing (pt)
2066	Chocolate and Cocoa Products	31132	Chocolate and Confectionery Manufacturing from Cacao Beans
2067@	Chewing Gum	31134	Non-Chocolate Confectionery Manufacturing (pt)
2068@	Salted and Roasted Nuts and Seeds	311911	Roasted Nuts and Peanut Butter Manufacturing (pt)
2074@	Cottonseed Oil Mills	311223	Other Oilseed Processing (pt)
2075	Soybean Oil Mills	311222	Soybean Processing
2076@	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybeans	311223	Other Oilseed Processing (pt)
2077@	Animal and Marine Fats and Oils		
	Animal Fats and Oils	311613	Rendering and Meat By-product Processing (pt)
	Canned Marine Fats and Oils	311711	Seafood Canning (pt)
	Fresh and Frozen Marine Fats and Oils	311712	Fresh and Frozen Seafood Processing (pt)
	Vegetable Oil Foots	311225	Edible Fats and Oils Manufacturing (pt)
2079	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils, NEC	311225	Edible Fats and Oils Manufacturing (pt)
2082	Malt Beverages	31212	Breweries
2083	Malt	311213	Malt Manufacturing

2084	Wines, Brandy, and Brandy Spirits	31213	Wineries
2085	Distilled and Blended Liquors	31214	Distilleries
2086	Bottled and Canned Soft Drinks and Carbonated Waters		
	Soft Drinks	312111	Soft Drink Manufacturing
	Bottled Water	312112	Bottled Water Manufacturing
2087@	Flavoring Extracts and Flavoring Syrups NEC		
	Flavoring Syrup and Concentrate	31193	Flavoring Syrup and Concentrate Manufacturing
	Flavoring Extracts	311942	Spice and Extract Manufacturing (pt)
	Powered Drink Mix	311999	All Other Miscellaneous Food Manufacturing (pt)
2091@	Canned and Cured Fish and Seafood	311711	Seafood Canning (pt)
2092@	Prepared Fresh or Frozen Fish and Seafoods	311712	Fresh and Frozen Seafood Processing (pt)
2095@	Roasted Coffee		
	Roasted Coffee	31192	Coffee and Tea Manufacturing (pt)
	Coffee Extracts	311942	Spice and Extract Manufacturing (pt)
2096@	Potato Chips, Corn Chips, and Similar Snacks	311919	Other Snack Food Manufacturing (pt)
2097	Manufactured Ice	312113	Ice Manufacturing
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	311823	Pasta Manufacturing
2099	Food Preparations, NEC		
	Bouillon	311423	Dried and Dehydrated Food Manufacturing
	Reducing Maple Sap to Maple Syrup	111998	All Other Miscellaneous Crop Farming (pt)
	Marshmallow Creme	31134	Non-Chocolate Confectionery Manufacturing (pt)
	Peanut Butter	311911	Roasted Nuts and Peanut Butter Manufacturing (pt)
	Perishable Prepared Food	311991	Perishable Prepared Food Manufacturing
	Tortillas	31183	Tortilla Manufacturing

	Tea	31192	Coffee and Tea Manufacturing (pt)
	Vinegar, Dip Mix, Salad Dressing Mix and Seasoning Mix	311941	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (pt)
	Spices and Extracts	311942	Spice and Extract Manufacturing (pt)
	Other	311999	All Other Miscellaneous Food Manufacturing (pt)
2111	Cigarettes	312221	Cigarette Manufacturing
2121	Cigars	312229	Other Tobacco Product Manufacturing (pt)
2131@	Chewing and Smoking Tobacco and Snuff	312229	Other Tobacco Product Manufacturing (pt)
2141@	Tobacco Stemming and Redrying		
	Reconstituted Tobacco	312229	Other Tobacco Product Manufacturing (pt)
	Redrying and Stemming	31221	Tobacco Stemming and Redrying
2211@	Broadwoven Fabric Mills, Cotton	31321	Broadwoven Fabric Mills (pt)
2221@	Broadwoven Fabric Mills, Manmade Fiber and Silk	31321	Broadwoven Fabric Mills (pt)
2231@	Broadwoven Fabric Mills, Wool (Including Dyeing and Finishing)		
	Except Wool Finishing	31321	Broadwoven Fabric Mills (pt)
	Wool Broadwoven Fabric Finishing	313311	Broadwoven Fabric Finishing Mills (pt)
	Wool Finishing, Except Broadwoven Fabric	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2241	Narrow Fabric and Other Smallware Mills: Cotton, Wool, Silk, and Manmade Fiber	313221	Narrow Fabric Mills (pt)
2251@	Women's Full-Length and Knee-Length Hosiery, Except Socks	315111	Sheer Hosiery Mills (pt)
2252 @	Hosiery, NEC		
	Girls' Hosiery	315111	Sheer Hosiery Mills (pt)
	Socks	315119	Other Hosiery and Sock Mills
2253@	Knit Outerwear Mills	315191	Outerwear Knitting Mills (pt)
2254	Knit Underwear and Nightwear Mills	315192	Underwear and Nightwear Knitting Mills (pt)
2257@	Wet Knit Fabric Mills		

2258@	Except Finishing	313241	Weft Knit Fabric Mills (pt)
	Finishing	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2259@	Lace and Warp Knit Fabric Mills	313249	Other Knit Fabric and Lace Mills (pt)
	Except Finishing	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2261@	Knitting Mills, NEC	315191	Outerwear Knitting Mills (pt)
	Knit Gloves and Mittens	315192	Underwear and Nightwear Knitting Mills (pt)
2262@	Girdles	313241	Weft Knit Fabric Mills (pt)
	Finished Articles of Weft Knit Fabric	313249	Other Knit Fabric and Lace Mills (pt)
2269@	Finished Articles of Warp Knit Fabric	313311	Broadwoven Fabric Finishing Mills (pt)
	Finishers of Broadwoven Fabrics of Cotton	313311	Broadwoven Fabric Finishing Mills (pt)
2273	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk	313311	Broadwoven Fabric Finishing Mills (pt)
	Finishers of Textiles, NEC	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2281@	Broadwoven Finishing	31411	Carpet and Rug Mills
	Except Broadwoven Finishing	313111	Yarn Spinning Mills (pt)
2282@	Carpets and Rugs	313112	Yarn Texturing, Throwing and Twisting Mills
	Yarn Spinning Mills	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2284@	Yarn Texturizing, Throwing, Twisting, and Winding Mills	313113	Thread Mills (pt)
	Except Spooling Purchased Yarn	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2295@	Spooling Purchased Yarn	313113	Thread Mills (pt)
	Thread Mills	313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
2295@	Except Finishing	31332	Fabric Coating Mills (pt)
	Finishing		
2295@	Coated Fabrics, Not Rubberized		

2296	Tire Cord and Fabrics	314992	Tire Cord and Tire Fabric Mills
2297@	Nonwoven Fabrics	31323	Nonwoven Fabric Mills (pt)
2298	Cordage and Twine	314991	Rope, Cordage and Twine Mills
2299@	Textile Goods, NEC		
	Broadwoven Fabric of Jute, Linen, Hemp, and Ramie	31321	Broadwoven Fabric Mills (pt)
	Nonwoven Felt	31323	Nonwoven Fabric Mills (pt)
	Finishing Thread and Yarn of Flax, Hemp, Jute, Linen, and Ramie	313312	Textile and Fabric Finishing (except Broadwoven Fabrics) Mills (pt)
	Narrow Woven Fabric of Jute, Linen, Hemp, and Ramie	313221	Narrow Fabric Mills (pt)
	Thread of Hemp, Linen, and Ramie	313113	Thread Mills (pt)
	Yarn of Flax, Hemp, Jute, and Ramie	313111	Yarn Spinning Mills (pt)
	Other Textile Goods	314999	All Other Miscellaneous Textile Product Mills (pt)
2311@	Men's and Boys' Suits, Coats and Overcoats		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt)
2321@	Men's and Boys' Shirts, Except Work Shirts		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315223	Men's and Boys' Cut and Sew Shirt, (except Work Shirt) Manufacturing (pt)
2322@	Men's and Boys' Underwear and Nightwear		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
2323	Men's and Boys' Neckwear	315993	Men's and Boys' Neckwear Manufacturing
2325@	Men's and Boys' Trousers and Slacks		
	Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Except Contractors	315224	Men's and Boys' Cut And Sew Trousers, Slack, And Jean Manufacturing (pt)

2326@	Men's and Boys' Work Clothing Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
		315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing
		315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
2329@	Men's and Boys' Clothing, NEC Contractors	315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt)
		315299	All Other Cut and Sew Apparel Manufacturing (pt)
		315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2331@	Women's, Misses', and Juniors' Blouses and Shirts Contractors	315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing (pt)
		315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
		315233	Women's and Girls' Cut and Sew Dress Manufacturing (pt)
2335@	Women's, Misses' and Junior's Dresses Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
		315233	Women's and Girls' Cut and Sew Dress Manufacturing (pt)
		315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2337@	Women's, Misses' and Juniors' Suits, Skirts and Coats Contractors	315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
		315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
		315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
2339@	Women's, Misses' and Juniors' Outerwear, NEC Contractors	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
		315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
		315299	All Other Cut and Sew Apparel Manufacturing (pt)
2341@	Women's, Misses, Children's, and Infants' Underwear and Nightwear Contractors	315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt)
		315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
		315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)

2342@	Women's and Girls', Except Contractors	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
	Boys' Except Contractors	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
	Infants', Except Contractors	315291	Infants' Cut and Sew Apparel Manufacturing (pt)
2353	Brassieres, Girdles, and Allied Garments		
	Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Except contractors	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
2361@	Hats, Caps, and Millinery	315991	Hat, Cap, and Millinery Manufacturing
	Girls', Children's and Infants' Dresses, Blouses and Shirts		
	Infants' Dresses, Blouses, and Shirts	315291	Infants' Cut and Sew Apparel Manufacturing (pt)
2369@	Boys' Shirts	315223	Men's and Boys' Cut and Sew Shirt, Except Work Shirt Manufacturing (pt)
	Boys' Shirt Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors
	Girls' Blouses and Shirts	315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing (pt)
	Girls' Dresses	315233	Women's and Girls' Cut and Sew Dress Manufacturing (pt)
	Girls' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Girls', Children's and Infants' Outerwear, NEC		
	Infants' Outerwear, NEC	315291	Infants' Cut and Sew Apparel Manufacturing (pt)
	Boys' Suits and Coats	315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt)
	Boys' Trousers and Slacks	315224	Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturing (pt)
	Boys' Outerwear, NEC	315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt)
	Boys' Robes	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
	Boys' Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Girls' Suits, Coats, Skirts, Etc.	315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
	Girls' Outerwear, NEC	315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt)

	Girls' Robes	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
	Girls' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2371	Fur Goods	315292	Fur and Leather Apparel Manufacturing (pt)
2381@	Dress and Work Gloves, Except Knit and All-Leather	315992	Glove and Mitten Manufacturing (pt)
2384@	Robes and Dressing Gowns		
	Women's Except Contractors	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
	Men's Except Contractors	315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing (pt)
	Men's and Boys' Contractors	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Women's and Girls' Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2385@	Waterproof Outerwear		
	Raincoats (Men's and Boys')	315222	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturing (pt)
	Raincoats (Women's and Girls')	315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturing (pt)
	Other Men's and Boys' Outerwear	315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing (pt)
	Other Women's and Girls' Outerwear	315238	Women's and Girls' Cut and Sew Other Outerwear Manufacturing (pt)
	Infants' Waterproof Outerwear Except Contractors	315291	Infants' Cut and Sew Apparel Manufacturing (pt)
	Aprons, Bibs, and Other Miscellaneous Waterproof Items	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
	Contractors (Men's and Boys')	315211	Men's and Boys' Cut and Sew Apparel Contractors (pt)
	Contractors (Women's and Girls')	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
2386@	Leather and Sheep-Lined Clothing	315292	Fur and Leather Apparel Manufacturing (pt)
2387@	Apparel Belts	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
2389@	Apparel and Accessories, NEC		
	Handkerchiefs, Arm bands, etc.	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)
	Academic and Clerical Outerwear	315299	All Other Cut and Sew Apparel Manufacturing (pt)

2391	Garters and Garter Belts	315231	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturing (pt)
2392@	Women's Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Men's Contractors	315211	Mens' and Boys' Cut and Sew Apparel Contractors (pt)
	Curtains and Draperies	314121	Curtain and Drapery Mills (pt)
	Housefurnishings, Except Curtains and Draperies		
	Blanket, Laundry, and Wardrobe Bags	314911	Textile Bag Mills (pt)
	Mops, Floor and Dust	339994	Broom, Brush and Mop Manufacturing (pt)
	Other Housefurnishings	314129	Other Household Textile Product Mills (pt)
2393@	Textile Bags	314911	Textile Bag Mills (pt)
2394	Canvas and Related Products	314912	Canvas and Related Product Mills
2395@	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade		
2396@	Pleating and Stitching, Except Apparel Contractors	314999	All Other Miscellaneous Textile Product Mills (pt)
	Men's and Boys' Apparel Contractors	315211	Mens' and Boys' Cut and Sew Apparel Contractors (pt)
	Women's and Girls' Apparel Contractors	315212	Women's and Girls' Cut and Sew Apparel Contractors (pt)
	Automotive Trimmings, Apparel Findings, and Related Products		
	Textile Automotive Trimmings	33636	Motor Vehicle Fabric Accessories and Seat Manufacturing (pt)
	Apparel Findings and Trimmings	315999	Other Apparel Accessories, and Other Apparel Manufacturing (pt)
	Printing and Embossing on Fabric Articles	323113	Commercial Screen Printing
	Other Apparel Products	314999	All Other Miscellaneous Textile Product Manufacturing (pt)
2397	Schiffli Machine Embroideries	313222	Schiffli Machine Embroidery
2399	Fabricated Textile Products, NEC		
	Seat Belts and Seat and Tire Covers	33636	Motor Vehicle Fabric Accessories and Seat Manufacturing (pt)
	Apparel and Apparel Accessories	315999	Other Apparel Accessories and Other Apparel Manufacturing (pt)

2411	Other Fabricated Textile Products	314999	All Other Miscellaneous Textile Product Mills (pt)
2421@	Logging	11331	Logging
	Sawmills and Planing Mills, General		
	Lumber Manufacturing from Purchased Lumber, Softwood Cut Stock, Wood Lathe and Planing Mill Products	321913	Softwood Cut Stock, Resawing Lumber, and Planing
	Sawmills	321113	Sawmills (pt)
	Softwood Flooring	321914	Other Millwork (including Flooring) (pt)
	Kiln Drying	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
2426 @	Hardwood Dimension and Flooring Mills		
	Hardwood Flooring	321914	Millwork (including Flooring) (pt)
	Wood Stock and Turnings	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
	Wood Furniture Frames	337139	Other Wood Furniture Manufacturing (pt)
	Other Hardwood Dimension Except Flooring	321912	Hardwood Dimension Mills
2429@	Special Product Sawmills, NEC		
	Sawmills	321113	Sawmills (pt)
	Stave Manufacturing from Purchased Lumber	321913	Softwood Cut Stock, Resawing Lumber, and Planing
	Excelsior and Coopersage Headings	321999	All Other Miscellaneous Wood Product Manufacturing
2431	Millwork		
	Wood Windows and Doors	321911	Wood Window and Door Manufacturing
	Except Wood Window and Doors	321914	Other Millwork (including Flooring) (pt)
2434	Wood Kitchen Cabinets	337131	Wood Kitchen Cabinet and Counter Top Manufacturing (pt)
2435	Hardwood Veneer and Plywood	321211	Hardwood Veneer and Plywood Manufacturing
2436	Softwood Veneer and Plywood	321212	Softwood Veneer and Plywood Manufacturing
2439@	Structural Wood Members, NEC		
	Lumber Member Manufacturing from Purchased Lumber	321913	Softwood Cut Stock, Resawing Lumber, and Planing

	Trusses		Truss Manufacturing
	Except Trusses and Lumber Member Manufacturing from Purchased Lumber	321214	Engineered Wood Member (except Truss) Manufacturing
2441	Nailed and Lock Corner Wood Boxes and Shook	32192	Wood Container and Pallet Manufacturing (pt)
2448	Wood Pallets and Skids	32192	Wood Container and Pallet Manufacturing (pt)
2449	Wood Containers, NEC	32192	Wood Container and Pallet Manufacturing (pt)
2451	Mobile Homes	321991	Manufactured Home (Mobile Home) Manufacturing
2452	Prefabricated Wood Buildings and Components	321992	Prefabricated Wood Building Manufacturing
2491	Wood Preserving	321114	Wood Preservation
2493	Reconstituted Wood Products	321219	Reconstituted Wood Product Manufacturing
2499	Wood Products, NEC		
	Mirror and Picture Frames	339999	All Other Miscellaneous Manufacturing (pt)
	Laundry Hampers Made from Rattan, Reed or Willow	337148	Other Nonwood Furniture Manufacturing
	Wood Laundry Hampers	337139	Other Wood Furniture Manufacturing (pt)
	Wood Tubs and Vats, Jewelry and Cigar Boxes	32192	Wood Container and Pallet Manufacturing (pt)
	Other Wood Products	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
2511@	Wood Household Furniture, Except Upholstered	337133	Wood Household Furniture (except Upholstered) Manufacturing (pt)
2512	Wood Household Furniture, Upholstered	337132	Upholstered Wood Household Furniture Manufacturing (pt)
2514	Metal Household Furniture	337142	Metal Household Furniture Manufacturing (pt)
2515	Mattresses, Foundations, and Convertible Beds		
	Mattresses and Foundations	33711	Mattress Manufacturing
	Convertible Sofas	337132	Upholstered Wood Household Furniture Manufacturing (pt)
2517	Wood Television, Radio, Phonograph and Sewing Machine Cabinets	337139	Other Wood Furniture Manufacturing (pt)
2519	Household Furniture, NEC	337143	Household Furniture (except Wood and Metal) Manufacturing (pt)

2521	Wood Office Furniture	337134	Wood Office Furniture Manufacturing (pt)
2522	Office Furniture, Except Wood	337141	Nonwood Office Furniture Manufacturing
2531@	Public Building and Related Furniture		
	Seats for Motor Vehicles	33636	Motor Vehicle Fabric Accessories and Seat Manufacturing (pt)
	Wood Furniture Made for Public Buildings	337139	Other Wood Furniture Manufacturing (pt)
	Nonwood Furniture Made for Public Buildings	337148	Other Nonwood Furniture Manufacturing
	Blackboards	339942	Lead Pencil and Art Good Manufacturing
	Other than Wood or Metal Furniture Made for Use in Public Buildings	337148	Other Furniture Manufacturing (pt)
2541	Wood Office and Store Fixtures, Partitions, Shelving, and Lockers		
	Counter Tops	337131	Wood Kitchen Cabinet and Counter Top Manufacturing
	Custom Architectural Woodwork, Millwork and Fixtures	337135	Custom Architectural Woodwork, Millwork, and Fixtures
	Except Counter Tops, Custom Architectural Woodwork, Millwork, and Fixtures	337139	Other Wood Furniture Manufacturing
2542@	Office and Store Fixtures, Partitions Shelving, and Lockers, Except Wood	337145	Nonwood Showcase, Partition, Shelving and Locker Manufacturing
2591	Drapery Hardware and Window Blinds and Shades	33712	Blind and Shade Manufacturing
2599@	Furniture and Fixtures, NEC		
	Hospital Beds	339113	Surgical Appliance and Supplies Manufacturing (pt)
	Wood Industrial Work Benches and Stools, and Other Wood Furniture Such As Ship Furniture	337139	Other Wood Furniture Manufacturing (pt)
	Other Nonwood Furniture or Fixtures	337148	Other Nonwood Furniture Manufacturing (pt)
2611	Pulp Mills		
	Pulp Producing Mills Only	32211	Pulp Mills
	Pulp Mills Producing Paper	322121	Paper (except Newsprint Mills) Mills (pt)
2621@	Paper Mills		

	Except Newsprint Mills	322121	Paper Mills, Except Newsprint Mills (pt)
	Newsprint Mills	322122	Newsprint Mills
2631	Paperboard Mills	32213	Paperboard Mills
2632	Setup Paperboard Boxes	322213	Setup Paperboard Box Manufacturing
2633	Corrugated and Solid Fiber Boxes	322211	Corrugated and Solid Fiber Box Manufacturing
2635	Fiber Cans, Tubes, Drums, and Similar Products	322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing
2636	Sanitary Food Containers, Except Folding	322215	Non-Folding Sanitary Food Container Manufacturing (pt)
2637	Folding Paperboard Boxes, Including Sanitary	322212	Folding Paperboard Box Manufacturing
2671	Packaging Paper and Plastics Film, Coated and Laminated		
	Single-Web Paper, Paper Multiweb Laminated Rolls and Sheets for Packaging Uses	322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing
	Plastics Packaging Film and Sheet	326112	Unsupported Plastics Packaging Film and Sheet Manufacturing
2672	Coated and Laminated Paper, NEC	322222	Coated and Laminated Paper Manufacturing (pt)
2673	Plastics, Foil, and Coated Paper Bags		
	Coated or Multiweb Laminated Bags	322223	Plastics, Foil, and Coated Paper Bag Manufacturing
	Plastics Bags	326111	Unsupported Plastics Bag Manufacturing
2674	Uncoated Paper and Multiwall Bags	322224	Uncoated Paper and Multiwall Bag Manufacturing
2675@	Die-Cut Paper and Paperboard and Cardboard		
	File Folders, Tabulating Cards, and Other Paper and Paperboard Office Supplies	322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing (pt)
	Pasted, Lined, Laminated, or Surface-Coated Paperboard	322292	Surface-Coated Paperboard Manufacturing
	Die-Cut Paper and Paperboard Products, Except Office Supplies	322298	All Other Converted Paper Product Manufacturing (pt)
2676	Sanitary Paper Products	322291	Sanitary Paper Product Manufacturing
2677	Envelopes	322232	Envelope Manufacturing
2678	Stationery, Tablets, and Related Products	322233	Stationery, Tablet, and Related Product Manufacturing

2679@	Converted Paper and Paperboard Products, NEC			
	Egg Cartons and Other Containers from Purchased Paper	322215	Non-Folding Sanitary Food Container Manufacturing (pt)	
	Wallpaper and Gift Wrap Paper	322222	Coated and Laminated Paper Manufacturing (pt)	
	Paper Supplies for Business Machines and Other Paper Office Supplies	322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing (pt)	
	Other Converted Paper and Paperboard Products such as Paper Filters, Crepe Paper, and Laminated and Tiled Wallboard	322298	All Other Converted Paper Product Manufacturing (pt)	
	Newspapers: Publishing, or Publishing and Printing	51111	Newspaper Publishers	
	Periodicals: Publishing, or Publishing and Printing	51112	Periodical Publishers	
	Books: Publishing, or Publishing and Printing	51113	Book Publishers	
	Book Printing	323117	Book Printing	
	Miscellaneous Publishing			
2752@	Database Publishing	51114	Database and Directory Publishers	
	Miscellaneous Publishing, Except Database	511199	All Other Publishers	
	Commercial Printing, Lithographic			
	Quick Printing	323114	Quick Printing (pt)	
	Except Quick Printing	323110	Commercial Lithographic Printing (pt)	
	Commercial Printing, Gravure	323111	Commercial Gravure Printing (pt)	
	Commercial Printing, NEC			
	Screen Printing	323113	Commercial Screen Printing (pt)	
	Flexographic Printing	323112	Commercial Flexographic Printing (pt)	
	Quick Printing	323114	Quick Printing (pt)	
2754	Digital Printing, except Quick Printing	323115	Digital Printing	
	Other Commercial Printing	323119	Other Commercial Printing (pt)	
	Manifold Business Forms	323116	Manifold Business Form Printing	
2759@				
2761				

2771@	Greeting Cards			
	Lithographic Printing of Greeting Cards	323110	Commercial Lithographic Printing (pt)	
	Gravure Printing of Greeting Cards	323111	Commercial Gravure Printing (pt)	
	Flexographic Printing of Greeting Cards	323112	Commercial Flexographic Printing (pt)	
	Screen Printing of Greeting Cards	323113	Commercial Screen Printing (pt)	
	Other Printing of Greeting Cards	323119	Other Commercial Printing (pt)	
	Publishing Greeting Cards	511191	Greeting Card Publishers	
2782@	Blankbooks, Loose-leaf Binders and Devices			
	Lithographic Printing of Checkbooks	323110	Commercial Lithographic Printing (pt)	
	Gravure Printing of Checkbooks	323111	Commercial Gravure Printing (pt)	
	Flexographic Printing of Checkbooks	323112	Commercial Flexographic Printing (pt)	
	Screen Printing of Checkbooks	323113	Commercial Screen Printing (pt)	
	Other Printing of Checkbooks	323119	Other Commercial Printing (pt)	
	Blankbooks, Loose-leaf Binders and Devices	323118	Blankbook, Loose-leaf Binder and Device Manufacturing	
2789	Bookbinding and Related Work	323121	Tradebinding and Related Work	
2791@	Typesetting	323122	Prepress Services (pt)	
2796@	Platemaking and Related Services	323122	Prepress Services (pt)	
2812	Alkalies and Chlorine	325181	Alkalies and Chlorine Manufacturing	
2813	Industrial Gases	32512	Industrial Gas Manufacturing (pt)	
2816	Inorganic Pigments			
	Inorganic Pigments, Except Bone and Lamp Black	325131	Inorganic Dye and Pigment Manufacturing (pt)	
	Bone and Lamp Black	325182	Carbon Black Manufacturing (pt)	
2819@	Industrial Inorganic Chemicals, NEC			
	Activated Carbon and Charcoal	325998	All Other Miscellaneous Chemical Product Manufacturing (pt)	

	Alumina	331311	Alumina Refining
	Inorganic Dyes	325131	Inorganic Dye and Pigment Manufacturing (pt)
	Other	325188	All Other Inorganic Chemical Manufacturing (pt)
2821	Plastics Material Synthetic Resins, and Nonvulcanizable Elastomers	325211	Plastics Material and Resin Manufacturing
2822	Synthetic Rubber	325212	Synthetic Rubber Manufacturing
2823	Cellulosic Manmade Fibers	325221	Cellulosic Manmade Fiber Manufacturing
2824	Manmade Organic Fibers, Except Cellulosic	325222	Noncellulosic Organic Fiber Manufacturing
2833	Medicinal Chemicals and Botanical Products	325411	Medicinal and Botanical Manufacturing
2834	Pharmaceutical Preparations	325412	Pharmaceutical Preparation Manufacturing (pt)
2835@	In Vitro and In Vivo Diagnostic Substances		
	Diagnostic Substances, Except In-Vitro Diagnostic	325412	Pharmaceutical Preparation Manufacturing (pt)
	In-Vitro Diagnostic Substances	325413	In-Vitro Diagnostic Substance Manufacturing
2836	Biological Products, Except Diagnostic Substances	325414	Biological Product (except Diagnostic) Manufacturing
2841	Soaps and Other Detergents, Except Speciality Cleaners	325611	Soap and Other Detergent Manufacturing (pt)
2842	Speciality Cleaning, Polishing, and Sanitary Preparations	325612	Polish and Other Sanitation Good Manufacturing
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants	325613	Surface Active Agent Manufacturing
2844	Perfumes, Cosmetics, and Other Toilet Preparations		
	Toilet Preparations, Except Toothpaste	32562	Toilet Preparation Manufacturing
	Toothpaste	325611	Soap and Other Detergent Manufacturing (pt)
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	32551	Paint and Coating Manufacturing (pt)
2861	Gum and Wood Chemicals	325191	Gum and Wood Chemical Manufacturing
2865@	Cyclic Organic Crudes and Intermediates, and Organic Dyes and Pigments		
	Aromatics	32511	Petrochemical Manufacturing (pt)

2869@	Organic Dyes and Pigments	325132	Organic Dye and Pigment Manufacturing
	Other	325192	Cyclic Crude and Intermediate Manufacturing
2869@	Industrial Organic Chemicals, NEC		
	Aliphatics	32511	Petrochemical Manufacturing (pt)
	Carbon Bisulfide	325188	All Other Inorganic Chemical Manufacturing (pt)
	Ethyl Alcohol	325193	Ethyl Alcohol Manufacturing
	Fatty Acid Esters	325998	All Other Miscellaneous Chemical Product Manufacturing (pt)
	Fluorocarbon Gases	32512	Industrial Gas Manufacturing (pt)
	Other	325199	All Other Organic Chemical Manufacturing
	Nitrogenous Fertilizers	325311	Nitrogenous Fertilizer Manufacturing
	Phosphatic Fertilizers	325312	Phosphatic Fertilizer Manufacturing
	Fertilizers, Mixing Only	325314	Fertilizer (Mixing Only) Manufacturing
	Pesticides and Agricultural Chemicals, NEC	32532	Pesticide and Other Agricultural Chemical Manufacturing
	Adhesives and Sealants	32552	Adhesive and Sealant Manufacturing
	Explosives	32592	Explosives Manufacturing
	Printing Ink	32591	Printing Ink Manufacturing
	Carbon Black	325182	Carbon Black Manufacturing (pt)
2869@	Chemicals and Chemical Preparations, NEC		
	Frit	32551	Paint and Coating Manufacturing (pt)
	Table Salt	311942	Spice and Extract Manufacturing (pt)
	Other	325998	All Other Miscellaneous Chemical Product Manufacturing (pt)
	Petroleum Refining	32411	Petroleum Refineries
	Asphalt Paving Mixtures and Blocks	324121	Asphalt Paving Mixture and Block Manufacturing
	Asphalt Felts and Coatings	324122	Asphalt Shingle and Coating Materials Manufacturing
2873	Nitrogenous Fertilizers		
2874	Phosphatic Fertilizers		
2875	Fertilizers, Mixing Only		
2879	Pesticides and Agricultural Chemicals, NEC		
2891	Adhesives and Sealants		
2892	Explosives		
2893	Printing Ink		
2895	Carbon Black		
2899	Chemicals and Chemical Preparations, NEC		
2911	Frit		
	Table Salt		
	Other		
	Petroleum Refining		
2951	Asphalt Paving Mixtures and Blocks		
2952	Asphalt Felts and Coatings		

2992	Lubricating Oils and Greases	324191	Petroleum Lubricating Oil and Grease Manufacturing
2999	Products of Petroleum and Coal, NEC	324199	All Other Petroleum and Coal Products Manufacturing (pt)
3011	Tires and Inner Tubes	326211	Tire Manufacturing (except Retreading)
3021	Rubber and Plastics Footwear	316211	Rubber and Plastics Footwear Manufacturing
3052	Rubber and Plastics Hose and Belting	32622	Rubber and Plastics Hoses and Belting Manufacturing
3053	Gaskets, Packing, and Sealing Devices	339991	Gasket, Packing, and Sealing Device Manufacturing
3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Products	326291	Rubber Product Manufacturing for Mechanical Use
3069	Fabricated Rubber Products, NEC		
	Rubberized Fabric	31332	Fabric Coating Mills (pt)
	Rubber Resilient Floor Covering	326192	Resilient Floor Covering Manufacturing (pt)
	Other	326299	All Other Rubber Product Manufacturing (pt)
3081	Unsupported Plastics Film and Sheet	326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing (pt)
3082	Unsupported Plastics Profile Shapes	326121	Unsupported Plastics Profile Shape Manufacturing (pt)
3083	Laminated Plastics Plate, Sheet, and Profile Shapes	32613	Laminated Plastics Plate, Sheet, and Shape Manufacturing
3084@	Plastic Pipe	326122	Plastic Pipe and Pipe Fitting Manufacturing (pt)
3085	Plastics Bottles	32616	Plastics Bottle Manufacturing
3086	Plastics Foam Products		
	Urethane Foam Products	32615	Urethane and Other Foam Product (except Polystyrene) Manufacturing
	Polystyrene Foam Products	32614	Polystyrene Foam Product Manufacturing
3087	Custom Compounding of Purchased Plastics Resins	325991	Custom Compounding of Purchased Resin
3088	Plastics Plumbing Fixtures	326191	Plastics Plumbing Fixtures Manufacturing
3089	Plastics Products, NEC		
	Pipe Fittings	326122	Plastics Pipe and Pipe Fitting Manufacturing (pt)
	Plastics Sausage Casings	326121	Unsupported Plastics Profile Shape Manufacturing (pt)

3111	Other	326199	All Other Plastics Product Manufacturing (pt)
	Leather Tanning and Finishing	31611	Leather and Hide Tanning and Finishing (pt)
3131@	Boot and Shoe Cut Stock and Findings		
	Wood Heels	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
	Metal Buckles	339993	Fastener, Button, Needle, and Pin Manufacturing (pt)
	Except Wood Heels and Metal Buckles	316999	All Other Leather Good Manufacturing (pt)
3142	House Slippers	316212	House Slipper Manufacturing
3143	Men's Footwear, Except Athletic	316213	Men's Footwear (except Athletic) Manufacturing
3144	Women's Footwear, Except Athletic	316214	Women's Footwear (except Athletic) Manufacturing
3149	Footwear, Except Rubber, NEC	316219	Other Footwear Manufacturing
3151	Leather Gloves and Mittens	315992	Glove and Mitten Manufacturing (pt)
3161	Luggage	316991	Luggage Manufacturing
3171	Women's Handbags and Purses	316992	Women's Handbag and Purse Manufacturing
3172	Personal Leather Goods, Except Women's Handbags and Purses	316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing
3199@	Leather Goods, NEC	316999	All Other Leather Good Manufacturing (pt)
3211	Flat Glass	327211	Flat Glass Manufacturing
3221	Glass Containers	327213	Glass Container Manufacturing
3229	Pressed and Blown Glass and Glassware, NEC	327212	Other Pressed and Blown Glass and Glassware Manufacturing
3231	Glass Products, Made of Purchased Glass	327215	Glass Product Manufacturing Made of Purchased Glass
3241	Cement, Hydraulic	32731	Hydraulic Cement Manufacturing
3251	Brick and Structural Clay Tile	327121	Brick and Structural Clay Tile Manufacturing
3253	Ceramic Wall and Floor Tile	327122	Ceramic Wall and Floor Tile Manufacturing
3255	Clay Refractories	327124	Clay Refractory Manufacturing
3259	Structural Clay Products, NEC	327123	Other Structural Clay Product Manufacturing

3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	327111	Vitreous China Plumbing Fixture and China and Earthenware Fitting and Bathroom Accessories Manufacturing
3262	Vitreous China Table and Kitchen Articles	327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing (pt)
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing (pt)
3264	Porcelain Electrical Supplies	327113	Porcelain Electrical Supply Manufacturing
3269	Pottery Products, NEC	327112	Vitreous China, Fine Earthenware, and Other Pottery Product Manufacturing (pt)
3271	Concrete Block and Brick	327331	Concrete Block and Brick Manufacturing
3272@	Concrete Products, Except Block and Brick		
	Dry Mixture Concrete	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt)
	Concrete Pipes	327332	Concrete Pipe Manufacturing
	Other Concrete Products	32739	Other Concrete Product Manufacturing
3273	Ready-Mixed Concrete	32732	Ready-Mix Concrete Manufacturing
3274	Lime	32741	Lime Manufacturing
3275	Gypsum Products	32742	Gypsum and Gypsum Product Manufacturing (pt)
3281	Cut Stone and Stone Products	327991	Cut Stone and Stone Product Manufacturing
3291	Abrasive Products		
	Steel Wool With or Without Soap	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Abrasive Products (Except Steel Wool With or Without Soap)	32791	Abrasive Product Manufacturing
3292	Asbestos Products		
	Asbestos Brake Linings and Pads	33634	Motor Vehicle Brake System Manufacturing (pt)
	Other Asbestos Products	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt)
3295	Minerals and Earths, Ground or Otherwise Treated	327992	Ground or Treated Mineral and Earth Manufacturing
3296	Mineral Wool	327993	Mineral Wool Manufacturing
3297	Nonclay Refractories	327125	Nonclay Refractory Manufacturing
3299@	Nonmetallic Mineral Products, NEC		

3312@	Moldings, Ornamental and Architectural Plaster Work	32742	Gypsum and Gypsum Product Manufacturing (pt)
	Other Nonmetallic Mineral Products	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing (pt)
3313@	Steel Works, Blast Furnaces (Including Coke Ovens), and Rolling Mills		
	Coke Ovens, Not Integrated With Steel Mills	324199	All Other Petroleum and Coal Products Manufacturing (pt)
	Except Coke Ovens Not Integrated with Steel Mills	331111	Iron and Steel Mills (pt)
	Electrometallurgical Products, Except Steel		
3315@	Ferroalloys	331112	Electrometallurgical Ferroalloy Product Manufacturing
	Nonferrous Alloys	331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metals (except Copper and Aluminum)
	Steel Wire Drawing and Steel Nails and Spikes		
	Steel Wire Drawing	331222	Steel Wire Drawing
3316	Nails, Spikes, Paper Clips, and Wire, Not Made in Wire Drawing Plants	332618	Other Fabricated Wire Product Manufacturing (pt)
	Cold-Rolled Steel Sheet, Strip, and Bars	331221	Cold-Rolled Steel Shape Manufacturing
	Steel Pipe and Tubes	33121	Iron and Steel Pipes and Tubes Manufacturing from Purchased Steel
	Gray and Ductile Iron Foundries	331511	Iron Foundries (pt)
	Malleable Iron Foundries	331511	Iron Foundries (pt)
	Steel Investment Foundries	331512	Steel Investment Foundries
	Steel Foundries, NEC	331513	Steel Foundries (except Investment)
	Primary Smelting and Refining of Copper	331411	Primary Smelting and Refining of Copper
	Primary Production of Aluminum	331312	Primary Aluminum Production
	Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum	331419	Primary Smelting and Refining of Nonferrous Metals (except Copper and Aluminum)
	Secondary Smelting and Refining of Nonferrous Metals		
	Aluminum	331314	Secondary Smelting and Alloying of Aluminum (pt)

	Copper	331423	Secondary Smelting, Refining, and Alloying of Copper
	Except Aluminum and Copper	331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metals (except Copper and Aluminum) (pt)
3351	Rolling, Drawing, and Extruding of Copper	331421	Copper (except Wire) Rolling, Drawing, and Extruding
3353	Aluminum Sheet, Plate, and Foil	331315	Aluminum Sheet, Plate, and Foil Manufacturing
3354	Aluminum Extruded Products	331316	Aluminum Extruded Product Manufacturing
3355	Aluminum Rolling and Drawing, NEC	331319	Other Aluminum Rolling and Drawing, (pt)
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing, and Extruding (pt)
3357@	Drawing and Insulating of Nonferrous Wire		
	Aluminum Wire Drawing	331319	Other Aluminum Rolling and Drawing (pt)
	Copper Wire Drawing	331422	Copper Wire Drawing
	Wire Drawing Except Copper or Aluminum	331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing, and Extruding (pt)
	Fiber Optic Cable - Insulating Only	335921	Fiber Optic Cable Manufacturing
	All Other	335929	Other Communication and Energy Wire Manufacturing
3363	Aluminum Die-Castings	331521	Aluminum Die-Castings
3364	Nonferrous Die-Castings, Except Aluminum	331522	Nonferrous (except Aluminum) Die-Castings
3365	Aluminum Foundries	331524	Aluminum Foundries
3366	Copper Foundries	331525	Copper Foundries
3369	Nonferrous Foundries, Except Aluminum and Copper	331528	Other Nonferrous Foundries
3398	Metal Heat Treating	332811	Metal Heat Treating
3399@	Primary Metal Products, NEC		
	Ferrous Powder, Paste, Flakes, etc.	331111	Iron and Steel Mills (pt)
	Aluminum Powder, Paste, Flakes, etc.	331314	Secondary Smelting and Alloying of Aluminum (pt)
	Copper Powder, Flakes, Pastae, etc.	331423	Secondary Smelting, Refining and Alloying of Copper (pt)

	Other Nonferrous Powder, Paste, Flakes, etc.	331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metals (except Copper and Aluminum) (pt)
	Nonferrous Nails, Brads, Staples, etc.	332618	Other Fabricated Wire Product Manufacturing (pt)
	Laminated Steel	332813	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt)
3411	Metal Cans	332431	Metal Can Manufacturing
3412	Metal Shipping Barrels, Drums, Kegs and Pails	332439	Other Metal Container Manufacturing (pt)
3421	Cutlery	332211	Cutlery and Flatware (except Precious) Manufacturing (pt)
3423	Hand and Edge Tools, Except Machine Tools and Handsaws	332212	Hand and Edge Tool Manufacturing (pt)
3425	Saw Blades and Handsaws	332213	Saw Blade and Handsaw Manufacturing
3429@	Hardware, NEC		
	Vacuum and Insulated Bottles, Jugs, and Chests	332499	Other Metal Container Manufacturing (pt)
	Hose Nozzles	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt)
	Hardware, Except Hose Nozzles, and Vacuum and Insulated Bottles, Jugs, and Chests	33251	Hardware Manufacturing (pt)
3431	Enameled Iron and Metal Sanitary Ware	332998	Enameled Iron and Metal Sanitary Ware Manufacturing
3432	Plumbing Fixture Fittings and Trim		
	Plumbing Fixtures Fittings and Trim, Except Metal Shower Rods	332913	Plumbing Fixture Fitting and Trim Manufacturing
	Metal Shower Rods	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
3433	Heating Equipment, Except Electric and Warm Air Furnaces	333414	Heating Equipment Manufacturing, (except Electric and Warm Air Furnaces) (pt)
3441	Fabricated Structural Metal	332312	Fabricated Structural Metal Manufacturing (pt)
3442	Metal Doors, Sash, Frames, Molding, and Trim Manufacturing	332321	Metal Window and Door Manufacturing
3443@	Fabricated Plate Work (Boiler Shops)		
	Fabricated Plate Work and Metal Weldments	332313	Plate Work Manufacturing
	Power Boilers and Heat Exchanges	33241	Power Boiler and Heat Exchanger Manufacturing
	Heavy Gauge Tanks	33242	Metal Tank (Heavy Gauge) Manufacturing

3444	Metal Cooling Towers	333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (pt)
	Sheet Metal Work		
	Ducts, Flumes, Flooring, Siding, Dampers, etc.	332322	Sheet Metal Work Manufacturing
	Metal Bins and Vats	332439	Other Metal Container Manufacturing (pt)
3446	Architectural and Ornamental Metal Work	332323	Ornamental and Architectural Metal Work Manufacturing (pt)
3448	Prefabricated Metal Buildings and Components	332311	Prefabricated Metal Building and Component Manufacturing
3449@	Miscellaneous Structural Metal Work		
	Custom Roll Forming	332114	Custom Roll Forming
	Fabricated Bar Joists and Concrete Reinforcing Bars	332312	Fabricated Structural Metal Manufacturing (pt)
	Curtain Wall	332321	Metal Window and Door Manufacturing (pt)
	Metal Plaster Bases	332323	Ornamental and Architectural Metal Work Manufacturing (pt)
3451	Screw Machine Products	332721	Precision Turned Product Manufacturing
3452	Bolts, Nuts, Screws, Rivets, and Washers	332722	Bolt, Nut, Screw, Rivet, and Washer Manufacturing
3462	Iron and Steel Forgings	332111	Iron and Steel Forging
3463	Nonferrous Forgings	332112	Nonferrous Forging
3465	Automotive Stamping	33637	Motor Vehicle Metal Stamping
3466	Crowns and Closures	332115	Crown and Closure Manufacturing
3469	Metal Stamping, NEC		
	Stamping Coins	339911	Jewelry (including Precious Metal) Manufacturing, (pt)
	Metal Stamping, NEC (Except Kitchen Utensils, Pots and Pans for Cooking and Coins)	332116	Metal Stamping
	Kitchen Utensils and Pots and Pans for Cooking	332214	Kitchen Utensil, Pot and Pan Manufacturing
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	332813	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt)
3479	Coating, Engraving, and Allied Services, NEC		

	Jewelry Engraving and Etching, Costume Jewelry	339914	Costume Jewelry and Novelty Manufacturing (pt)
	Jewelry Engraving and Etching, Precious Metal	339911	Jewelry (including Precious Metal) Manufacturing (pt)
	Silverware and Flatware Engraving and Etching	339912	Silverware and Plated Ware Manufacturing (pt)
	Other Coating, Engraving and Allied Services	332812	Metal Coating, Engraving, and Allied Services (except Jewelry and Silverware) to Manufacturing
3482	Small Arms Ammunition	332992	Small Arms Ammunition Manufacturing
3483	Ammunition, Except for Small Arms	332993	Ammunition (except Small Arms) Manufacturing
3484	Small Arms	332994	Small Arms Manufacturing
3489	Ordnance and Accessories, NEC	332995	Other Ordnance and Accessories Manufacturing
3491	Industrial Valves	332911	Industrial Valve Manufacturing
3492	Fluid Power Valves and Hose Fittings	332912	Fluid Power Valve and Hose Fitting Manufacturing (pt)
3493	Steel Springs, Except Wire	332611	Steel Spring (except Wire) Manufacturing
3494	Valves and Pipe Fittings, NEC		
	Except Metal Pipe Hangers and Supports	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt)
	Metal Pipe Hangers and Supports	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
3495	Wire Springs		
	Wire Springs (Except Watch and Clock Springs)	332612	Wire Spring Manufacturing
	Watch and Clock Springs	334518	Watch, Clock, and Part Manufacturing (pt)
3496	Miscellaneous Fabricated Wire Products	332618	Other Fabricated Wire Product Manufacturing (pt)
3497	Metal Foil and Leaf		
	Laminated Aluminum Foil Rolls/Sheets for Flexible Packaging Uses	322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses
	Foil and Foil Containers	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
3498	Fabricated Pipe and Pipe Fittings	332996	Fabricated Pipe and Pipe Fitting Manufacturing
3499	Fabricated Metal Products, NEC		

3511	Metal Furniture Frames	337148	Other Nonwood Furniture Manufacturing (pt)
	Powder Metallurgy	332117	Powder Metallurgy Part Manufacturing
	Metal Boxes	332439	Other Metal Container Manufacturing (pt)
	Safe and Vault Locks	33251	Hardware Manufacturing (pt)
	Metal Aerosol Valves	332919	Other Metal Valve and Pipe Fitting Manufacturing (pt)
	Trophies of Nonprecious Metals	339914	Costume Jewelry and Novelty Manufacturing
	Other Metal Products	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units	333611	Turbine and Turbine Generator Set Unit Manufacturing
	Internal Combustion Engines, NEC		
	Stationary Engine Radiators	336399	All Other Motor Vehicle Parts Manufacturing (pt)
3519	Except Stationary Engine Radiators	333618	Other Engine Equipment Manufacturing (pt)
	Farm Machinery and Equipment		
	Farm Machinery and Equipment (Except Corrals, Stalls, Holding Gates, Hand Hair Clippers for Animals, Farm Conveyors, and Elevators)	333111	Farm Machinery and Equipment Manufacturing
	Corrals, Stalls, Holding Gates	332323	Ornamental and Architectural Metal Work Manufacturing (pt)
	Hand Hair Clippers for Animals	332212	Hand and Edge Tool Manufacturing(pt)
	Farm Conveyors and Farm Elevators, Stackers, and Bale Throwers	333922	Conveyor and Conveying Equipment Manufacturing (pt)
	Lawn and Garden Tractors and Home Lawn and Garden Equipment		
	Lawn and Garden Tractors and Home Lawn and Garden Equipment (Except Nonpowered Lawnmowers)	333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing
	Nonpowered Lawnmowers	332212	Hand and Edge Tool Manufacturing (pt)
	Construction Machinery and Equipment		
3524	Railway Track Maintenance Equipment	33651	Railroad Rolling Stock Manufacturing (pt)
3523@			

	Winches, Aerial Work Platforms, and Automotive Wrecker Hoists	333923	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing (pt)
	Other Construction Machinery and Equipment	33312	Construction Machinery Manufacturing
3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment	333131	Mining Machinery and Equipment Manufacturing
3533	Oil and Gas Field Machinery and Equipment	333132	Oil and Gas Field Machinery and Equipment Manufacturing
3534	Elevators and Moving Stairways	333921	Elevator and Moving Stairway Manufacturing
3535	Conveyors and Conveying Equipment	333922	Conveyor and Conveying Equipment Manufacturing (pt)
3536	Overhead Traveling Cranes, Hoists and Monorail Systems	333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing (pt)
3537	Industrial Trucks, Tractors, Trailers, and Stackers		
	Industrial Trucks, Tractors, Trailers, and Stackers (Except Metal Pallets and Air Cargo Containers)	333924	Industrial Truck, Tractor, Trailer, and Stackers Machinery Manufacturing
	Metal Pallets	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Metal Air Cargo Containers	332439	Other Metal Container Manufacturing (pt)
3541	Machine Tools, Metal Cutting Type	333512	Machine Tool (Metal Cutting Types) Manufacturing
3542	Machine Tools, Metal Forming Type	333513	Machine Tool (Metal Forming Types) Manufacturing
3543	Industrial Patterns	332997	Industrial Pattern Manufacturing
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds		
	Except Industrial Molds	333514	Special Die and Tool, Die Set, Jig, and Fixture Manufacturing
	Industrial Molds	333511	Industrial Mold Manufacturing
3545@	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices		
	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (Except Precision Measuring Devices)	333515	Cutting Tool and Machine Tool Accessory Manufacturing
	Precision Measuring Devices	332212	Hand and Edge Tool Manufacturing (pt)
3546	Power-Driven Handtools	333991	Power-Driven Hand Tool Manufacturing

3547	Rolling Mill Machinery and Equipment	333516	Rolling Mill Machinery and Equipment Manufacturing
3548@	Electric and Gas Welding and Soldering Equipment		
	Except Transformers for Arc-Welding	333992	Welding and Soldering Equipment Manufacturing
	Transformers for Arc-Welding	335311	Power, Distribution, and Specialty Transformer Manufacturing (pt)
3549	Metalworking Machinery, NEC	333518	Other Metalworking Machinery Manufacturing
3552	Textile Machinery	333292	Textile Machinery Manufacturing
3553	Woodworking Machinery	33321	Sawmill and Woodworking Machinery Manufacturing
3554	Paper Industries Machinery	333291	Paper Industry Machinery Manufacturing
3555	Printing Trades Machinery and Equipment	333293	Printing Machinery and Equipment Manufacturing
3556	Food Products Machinery	333294	Food Product Machinery Manufacturing
3559@	Special Industry Machinery, NEC		
	Rubber and Plastics Manufacturing Machinery	33322	Rubber and Plastics Industry Machinery Manufacturing
	Automotive Maintenance Equipment	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
	Semiconductor Machinery Manufacturing	333295	Semiconductor Manufacturing Machinery
	Except Rubber and Plastics Manufacturing Machinery, Semiconductor Manufacturing Machinery and Automotive Maintenance Equipment	333298	All Other Industrial Machinery Manufacturing (pt)
3561	Pumps and Pumping Equipment	333911	Pump and Pumping Equipment Manufacturing (pt)
3562	Ball and Roller Bearings	332991	Ball and Roller Bearing Manufacturing
3563	Air and Gas Compressors	333912	Air and Gas Compressor Manufacturing
3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment		
	Air Purification Equipment	333411	Air Purification Equipment Manufacturing
	Fans and Blowers	333412	Industrial and Commercial Fan and Blower Manufacturing
3565	Packaging Machinery	333993	Packaging Machinery Manufacturing
3566	Speed Changers, Industrial High-Speed Drives, and Gears	333612	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing

3567	Industrial Process Furnaces and Ovens	333994	Industrial Process Furnace and Oven Manufacturing
3568	Mechanical Power Transmission Equipment, NEC	333613	Mechanical Power Transmission Equipment Manufacturing
3569	General Industrial Machinery and Equipment, NEC	333999	All Other General Purpose Machinery Manufacturing (pt)
3571	Electronic Computers	334111	Electronic Computer Manufacturing
3572	Computer Storage Devices	334112	Computer Storage Device Manufacturing
3575	Computer Terminals	334113	Computer Terminal Manufacturing
3577	Computer Peripheral Equipment, NEC	334119	Other Computer Peripheral Equipment Manufacturing (pt)
3578@	Calculating and Accounting Machines, Except Electronic Computers		
	Point of Sales Terminals and Fund Transfer Devices	334119	Other Computer Peripheral Equipment Manufacturing (pt)
	Calculating and Accounting Machines, Except Point of Sales Terminals and Fund Transfer Devices	333313	Office Machinery Manufacturing (pt)
3579@	Office Machines, NEC		
	Pencil Sharpeners, Staplers, and Other Office Equipment	339942	Lead Pencil and Art Good Manufacturing (pt)
	Time Clocks and Other Time Recording Devices	334518	Watch, Clock, and Part Manufacturing (pt)
	Other Office Machines	333313	Office Machinery Manufacturing (pt)
3581	Automatic Vending Machines	333311	Automatic Vending Machine Manufacturing
3582	Commercial Laundry, Drycleaning, and Pressing Machines	333312	Commercial Laundry, Drycleaning, and Pressing Machine Manufacturing
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment		
	Motor Vehicle Air Conditioning	336391	Motor Vehicle Air Conditioning Manufacturing
	Except Motor Vehicle Air Conditioning	333415	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (pt)
3586	Measuring and Dispensing Pumps	333913	Measuring and Dispensing Pump Manufacturing
3589	Service Industry Machinery, NEC	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
3592	Carburetors, Pistons, Piston Rings and Valves	336311	Carburetor, Piston, Piston Ring and Valve Manufacturing

3593	Fluid Power Cylinders and Actuators	333995	Fluid Power Cylinder and Actuator Manufacturing
3594	Fluid Power Pumps and Motors	333996	Fluid Power Pump and Motor Manufacturing
3596	Scales and Balances, Except Laboratory	333997	Scale and Balance (except Laboratory) Manufacturing
3599@	Industrial and Commercial Machinery and Equipment, NEC		
	Gasoline, Oil and Intake Filters for Internal Combustion Engines, Except Motor Vehicle	336399	All Other Motor Vehicle Part Manufacturing (pt)
	Flexible Metal Hose	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Carnival Amusement Park Equipment	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
	Machine Shops	33271	Machine Shops
	Other Industrial and Commercial Machinery and Equipment	333999	All Other General Purpose Machinery Manufacturing (pt)
3612	Power, Distribution, and Specialty Transformers	335311	Power, Distribution, and Specialty Transformer Manufacturing (pt)
3613	Switchgear and Switchboard Apparatus	335313	Switchgear and Switchboard Apparatus Manufacturing
3621	Motors and Generators	335312	Motor and Generator Manufacturing (pt)
3624	Carbon and Graphite Products		
	Gaskets	339991	Gasket, Packing, and Sealing Device Manufacturing (pt)
	Except Gaskets	335991	Carbon and Graphite Product Manufacturing
3625	Relays and Industrial Controls	335314	Relay and Industrial Control Manufacturing
3629	Electrical Industrial Apparatus, NEC	335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing (pt)
3631	Household Cooking Equipment	335221	Household Cooking Appliance Manufacturing
3632	Household Refrigerators and Home and Farm Freezers	335222	Household Refrigerator and Home and Farm Freezer Manufacturing (pt)
3633	Household Laundry Equipment	335224	Household Laundry Equipment Manufacturing
3634	Electric Housewares and Fans		
	Except Wall and Baseboard Heating Units for Permanent Installation	335211	Electric Houseware and Fan Manufacturing (pt)
	Wall and Baseboard Heating Units For Permanent Installation	333414	Heating Equipment (except Electric and Warm Air Furnaces) Manufacturing

3635	Household Vacuum Cleaners	335212	Household Vacuum Cleaner Manufacturing (pt)
3639	Household Appliances, NEC		
	Floor Waxing and Floor Polishing Machines	335212	Household Vacuum Cleaner Manufacturing (pt)
	Household Sewing Machines	333298	All Other Industrial Machinery Manufacturing (pt)
	Other Household Appliances	335228	Other Household Appliance Manufacturing
3641	Electric Lamp Bulbs and Tubes	33511	Electric Lamp Bulb and Part Manufacturing
3643	Current-Carrying Wiring Devices	335931	Current-Carrying Wiring Device Manufacturing
3644	Noncurrent-Carrying Wiring Devices	335932	Noncurrent-Carrying Wiring Device Manufacturing
3645	Residential Electric Lighting Fixtures	335121	Residential Electric Lighting Fixture Manufacturing (pt)
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing
3647	Vehicular Lighting Equipment	336321	Vehicular Lighting Equipment Manufacturing
3648@	Lighting Equipment, NEC	335129	Other Lighting Equipment Manufacturing (pt)
3651	Household Audio and Video Equipment	33431	Audio and Video Equipment Manufacturing
3652	Phonograph Records and Prerecorded Audio Tapes and Disks		
	Record Publishing	51221	Record Production pt)
	Reproduction of Recording Media	334612	Prerecorded Compact Disc (Except Software), Tape and Record Reproducing (pt)
	Integrated Record Companies, Except Duplication Only	51222	Integrated Record Production/Distribution (pt)
3661	Telephone and Telegraph Apparatus		
	Telephone and Telegraph Apparatus, Except Telephone Transformers, and Consumer External Modems	33421	Telephone Apparatus Manufacturing
	Telephone Transformers	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt)
	Consumer External Modems	334418	Printed Circuit/Electronics Assembly Manufacturing (pt)
3663	Radio and Television Broadcasting and Communication Equipment	33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing (pt)
3669	Communications Equipment, NEC	33429	Other Communication Equipment Manufacturing

3671	Electron Tubes	334411	Electron Tube Manufacturing
3672	Printed Circuit Boards	334412	Printed Circuit Board Manufacturing
3674	Semiconductors and Related Devices	334413	Semiconductor and Related Device Manufacturing
3675	Electronic Capacitors	334414	Electronic Capacitor Manufacturing
3676	Electronic Resistors	334415	Electronic Resistor Manufacturing
3677	Electronic Coils, Transformers, and Other Inductors	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt)
3678	Electronic Connectors	334417	Electronic Connector Manufacturing
3679	Electronic Components, NEC		
	Communication Equipment	33422	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing (pt)
	Printed Circuit/Electronics Assembly	334418	Printed Circuit/Electronics Assembly Manufacturing
	Electronic Control Modules for Motor Vehicles	336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt)
	Other Electronic Components	334419	Other Electronic Component Manufacturing (pt)
3691	Storage Batteries	335911	Storage Battery Manufacturing
3692	Primary Batteries, Dry and Wet	335912	Dry and Wet Primary Battery Manufacturing
3694	Electrical Equipment for Internal Combustion Engines	336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt)
3695	Magnetic and Optical Recording Media	334613	Magnetic and Optical Recording Media Manufacturing
3699	Electrical Machinery, Equipment, and Supplies, NEC		
	Electronic Teaching Machines and Flight Simulators	333319	Other Commercial and Service Industry Machinery Manufacturing (pt)
	Outboard Electric Motors	333618	Other Engine Equipment Manufacturing (pt)
	Bar Code Scanners	334119	Other Computer Peripheral Equipment Manufacturing (pt)
	Lasers		Classify According to Function
	Christmas Tree Lighting Sets and Electric Insect Lamps	335129	Other Lighting Equipment Manufacturing (pt)
	Other Electrical Machinery, Equipment, and Supplies	335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing (pt)
3711@	Motor Vehicles and Passenger Car Bodies		

3713 3714@	Automobiles	336111	Automobile Manufacturing
	Light Truck and Utility Vehicles	336112	Light Truck and Utility Vehicle Manufacturing
	Heavy Duty Trucks	33612	Heavy Duty Truck Manufacturing
	Kit Car and Other Passenger Car Bodies	336211	Motor Vehicle Body Manufacturing (pt)
	Military Armored Vehicles	336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt)
	Truck and Bus Bodies	336211	Motor Vehicle Body Manufacturing (pt)
	Motor Vehicle Parts and Accessories		
	Dump-Truck Lifting Mechanisms and Fifth Wheels	336211	Motor Vehicle Body Manufacturing (pt)
	Gasoline Engines Including Rebuilt and Engine Parts Including Rebuilt for Motor Vehicles	336312	Gasoline Engine and Engine Parts Manufacturing
	Wiring Harness Sets, Other than Ignition; Block Heaters and Battery Heaters; Instrument Board Assemblies; Permanent Defroster; Windshield Washer-Wiper Mechanisms; Cruise Control Mechanisms; and Other Electrical Equipment for Internal Combustion Engines	336322	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt)
3715 3716 3721 3724 3728	Steering and Suspension Parts	33633	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing
	Brake and Brake Systems, Including Assemblies	33634	Motor Vehicle Brake System Manufacturing (pt)
	Transmissions and Power Train Parts, Including Rebuilding	33635	Motor Vehicle Transmission and Power Train Part Manufacturing
	Other Motor Vehicle Parts	336399	All Other Motor Vehicle Parts Manufacturing (pt)
	Truck Trailers	336212	Truck Trailer Manufacturing
	Motor Homes	336213	Motor Home Manufacturing
	Aircraft	336411	Aircraft Manufacturing
	Aircraft Engines and Engine Parts	336412	Aircraft Engine and Engine Parts Manufacturing
	Aircraft Parts and Auxiliary Equipment, NEC		
	Fluid Power Aircraft Subassemblies	332912	Fluid Power Valve and Hose Fitting Manufacturing (pt)
3728	Except Fluid Power Aircraft Subassemblies	336413	Other Aircraft Part and Auxiliary Equipment Manufacturing

3731	Ship Building and Repairing	336611	Ship Building and Repairing
3732	Boat Building and Repairing		
	Boat Repair	81149	Other Personal and Household Goods Repair and Maintenance (pt)
	Boat Building	336612	Boat Building
3743	Railroad Equipment		
	Locomotive Fuel Lubricating or Cooling Medium Pumps	333911	Pump and Pumping Equipment Manufacturing (pt)
	Other Railroad Equipment	33651	Railroad Rolling Stock Manufacturing (pt)
3751	Motorcycles, Bicycles, and Parts	336991	Motorcycle, Bicycle, and Parts Manufacturing (pt)
3761	Guided Missiles and Space Vehicles	336414	Guided Missile and Space Vehicle Manufacturing
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing
3769	Guided Missile Space Vehicle Parts and Auxiliary Equipment, NEC	336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing
3792	Travel Trailers and Campers	336214	Travel Trailer and Camper Manufacturing (pt)
3795	Tanks and Tank Components	336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt)
3799@	Transportation Equipment, NEC		
	Automobile, Boat, Utility and Light Truck Trailers	336214	Travel Trailer and Camper Manufacturing (pt)
	Wheelbarrows	332212	Hand and Edge Tool Manufacturing (pt)
	Other Transportation Equipment	336999	All Other Transportation Equipment Manufacturing
3812	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments	334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing
3821	Laboratory Apparatus and Furniture	339111	Laboratory Apparatus and Furniture Manufacturing
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances	334512	Automatic Environmental Control Manufacturing for Regulating Residential, Commercial, and Appliance Use
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products	334513	Instruments and Related Product Manufacturing for Measuring Displaying, and Controlling Industrial Process Variables
3824	Totalizing Fluid Meters and Counting Devices	334514	Totalizing Fluid Meter and Counting Device Manufacturing

3825	Instruments for Measuring and Testing of Electricity and Electrical Signals		
	Portable Instrument Transformers	334416	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt)
	Except Portable Instrument Transformers	334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals
3826	Laboratory Analytical Instruments	334516	Analytical Laboratory Instrument Manufacturing
3827	Optical Instruments and Lenses	333314	Optical Instrument and Lens Manufacturing
3829	Measuring and Controlling Devices, NEC		
	Medical Thermometers	339113	Surgical Appliance and Supplies Manufacturing (pt)
	Except Medical Thermometers	334519	Other Measuring and Controlling Device Manufacturing
3841	Surgical and Medical Instruments and Apparatus	339112	Surgical and Medical Instrument Manufacturing
3842@	Orthopedic, Prosthetic, and Surgical Appliances and Supplies		
	Orthopedic, Prosthetic, and Surgical Appliances and Supplies, except Electronic Hearing Aids	339113	Surgical Appliance and Supplies Manufacturing (pt)
	Electronic Hearing Aids	334510	Electromedical and Electrotherapeutic Apparatus Manufacturing (pt)
3843	Dental Equipment and Supplies	339114	Dental Equipment and Supplies Manufacturing
3844	X-Ray Apparatus and Tubes and Related Irradiation Apparatus	334517	Irradiation Apparatus Manufacturing
3845	Electromedical and Electrotherapeutic Apparatus	334510	Electromedical and Electrotherapeutic Apparatus Manufacturing (pt)
3851	Ophthalmic Goods	339115	Ophthalmic Good Manufacturing
3861	Photographic Equipment and Supplies		
	Photographic Equipment and Supplies (Except Photographic Film, Paper, Plate and Chemicals)	333315	Photographic and Photocopying Equipment Manufacturing
	Photographic Film, Paper, Plates and Chemicals	325992	Photographic Film, Paper, Plate and Chemical Manufacturing
3873	Watches, Clocks, Clockwork Operated Devices and Parts	334518	Watch, Clock, and Part Manufacturing (pt)
3911	Jewelry, Precious Metal	339911	Jewelry Manufacturing, Including Precious Metal (pt)
3914	Silverware, Plated Ware, and Stainless Steel Ware		

3915	Cutlery and Flatware Except Precious	332211	Cutlery and Flatware (except Precious) Manufacturing (pt)
3931	Silverware, Plated Ware, and Stainless Steel Ware (Except Nonprecious Metal Cutlery and Flatware)	339912	Silverware and Plated Ware Manufacturing (pt)
3942	Jewelers' Findings and Materials, and Lapidary Work	339913	Jewelers' Material and Lapidary Work Manufacturing
3944	Musical Instruments	339992	Musical Instrument Manufacturing
	Dolls and Stuffed Toys	339931	Doll and Stuffed Toy Manufacturing
	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles		
	Metal Tricycles	336991	Motorcycle, Bicycle and Parts Manufacturing
	Other Games, Toys and Children's Vehicles	339932	Game, Toy, and Children's Vehicle Manufacturing
3949	Sporting and Athletic Goods, NEC	33992	Sporting and Athletic Good Manufacturing
3951	Pens, Mechanical Pencils and Parts	339941	Pen and Mechanical Pencil Manufacturing
3952@	Lead Pencils, Crayons, and Artist's Materials		
	Metal Drafting Tables and Boards	337148	Other Nonwood Furniture Manufacturing (pt)
	Wood Drafting Tables and Boards	337139	Other Wood Furniture Manufacturing (pt)
	Drawing and India Ink	325998	All Other Miscellaneous Chemical Manufacturing
	Other	339942	Lead Pencil and Art Good Manufacturing (pt)
3953	Marking Devices	339943	Marking Device Manufacturing
3955	Carbon Paper and Inked Ribbons	339944	Carbon Paper and Inked Ribbon Manufacturing
3961	Costume Jewelry and Costume Novelties, Except Precious Metals	339914	Costume Jewelry and Novelty Manufacturing (pt)
3965	Fasteners, Buttons, Needles, and Pins	339993	Fastener, Button, Needle and Pin Manufacturing (pt)
3991	Brooms and Brushes	339994	Broom, Brush and Mop Manufacturing (pt)
3993	Signs and Advertising Specialties	33995	Sign Manufacturing
3995	Burial Caskets	339995	Burial Casket Manufacturing
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, NEC	326192	Resilient Floor Covering Manufacturing (pt)

3999	Manufacturing Industries, NEC		
	Beauty and Barber Chairs	337148	Other Nonwood Furniture Manufacturing (pt)
	Burnt Wood Articles	321999	All Other Miscellaneous Wood Product Manufacturing (pt)
	Fur Dressing and Bleaching	31611	Leather and Hide Tanning and Finishing (pt)
	Lamp Shades of Paper or Textile	335121	Residential Electric Lighting Fixture Manufacturing (pt)
	Matches	325998	All Other Miscellaneous Chemical Product Manufacturing (pt)
	Metal Products, Such As Combs, Hair Curlers, Etc.	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt)
	Plastics Products, Such As Combs, Hair Curlers, Etc.	326199	All Other Plastics Product Manufacturing (pt)
	Flexographic Printing Eyeglass Frames for the Trade	323112	Commercial Flexographic Printing (pt)
	Gravure Printing Eyeglass Frames for the Trade	323111	Commercial Gravure Printing (pt)
	Lithographic Printing Eyeglass Frames for the Trade	323110	Commercial Lithographic Printing (pt)
	Screen Printing of Eyeglass Frames for the Trade	323113	Commercial Screen Printing (pt)
	Other Printing of Eyeglass Frames for the Trade	323119	Other Commercial Printing (pt)
	Tape Measures	332212	Hand and Edge Tool Manufacturing (pt)
	Other	339999	All Other Miscellaneous Manufacturing (pt)
4011	Railroads, Line-haul Operating	482111	Line-Haul Railroads
4013@	Railroad Switching and Terminal Establishments		
	Beltline and Logging Railroads	482112	Short Line Railroads
	Other	48821	Support Activities for Rail Transportation
4111@	Local and Suburban Transit		
	Mixed Mode Transit Systems	485111	Mixed Mode Transit Systems
	Commuter Rail Systems	485112	Commuter Rail Systems
	Bus and Motor Vehicle Transit Systems	485113	Bus and Motor Vehicle Transit Systems
	Other Urban Transit Systems	485119	Other Urban Transit Systems

4119@	Airport Limousine Transportation	485999	All Other Transit and Ground Passenger Transportation (pt)
	Local Passenger Transportation, NEC		
	Ambulances	62191	Ambulance Service
	Employee Transportation	48541	School and Employee Bus Industry
	Sightseeing Buses and Cable and Cog Railways, Except Scenic	48711	Scenic and Sightseeing Transportation, Land
	Special Needs Transportation	485991	Special Needs Transportation
	Hearse Rental with Driver and Carpool and Vanpool Operations	485999	All Other Transit and Ground Passenger Transportation (pt)
	Automobile Rental with Driver and Limousine Rental with Driver	48532	Limousine Service
4121	Taxis	48531	Taxi Service
4131	Intercity and Rural Bus Transportation	48521	Interurban and Rural Bus Lines
4141@	Local Bus Charter Service	48551	Charter Bus Industry (pt)
4142	Bus Charter Service, Except Local	48551	Charter Bus Industry (pt)
4151	School Buses	48541	School and Employee Bus Industry (pt)
4173@	Terminal and Service Facilities for Motor Vehicle Passenger Transportation	48849	Other Support Activities for Road Transportation (pt)
4212@	Local Trucking Without Storage		
	Solid Waste Collection Without Disposal	562111	Solid Waste Collection (pt)
	Hazardous Waste Collection Without Disposal	562112	Hazardous Waste Collection (pt)
	Other Waste Collection Without Disposal	562119	Other Waste Collection (pt)
	Local General Freight Trucking Without Storage	48411	General Freight Trucking, Local (pt)
	Household Goods Moving Without Storage	48421	Used Household and Office Goods Moving (pt)
	Local Specialized Freight Trucking Without Storage	48422	Specialized Freight (except Used Goods) Trucking, Local (pt)
4213@	Trucking, Except Local		
	Long-distance Truckload General Freight Trucking	484121	General Freight Trucking, Long-Distance, Truckload

4214@	Long-distance Less Than Truckload General Freight Trucking	484122	General Freight Trucking, Long-Distance, Less Than Truckload
	Long-distance Household Goods Moving	48421	Used Household and Office Goods Moving (pt)
	Long-distance Specialized Freight Trucking	48423	Specialized Freight (except Used Goods) Trucking, Long-Distance
	Local Trucking with Storage		
4215@	Local General Freight Trucking with Storage	48411	General Freight Trucking, Local (pt)
	Local Household Goods Moving	48421	Used Household and Office Goods Moving (pt)
	Local Specialized Freight Trucking with Storage	48422	Specialized Freight (except Used Goods) Trucking, Local
	Couriers Services Except by Air		
4221	Hub and Spoke Intercity Delivery	49211	Couriers (pt)
	Local Delivery	49221	Local Messengers and Local Delivery
	Farm Product Warehousing and Storage	49313	Farm Product Storage Facilities
	Refrigerated Warehousing and Storage	49312	Refrigerated Storage Facilities (pt)
4225	General Warehousing and Storage		
	General Warehousing and Storage	49311	General Warehousing and Storage (pt)
	Miniwarehouses and Self-Storage Units	53113	Lessors of Miniwarehouses and Self Storage Units
	Special Warehousing and Storage, NEC		
4226	Fur Storage	49312	Refrigerated Storage Facilities (pt)
	General Warehousing in Foreign Trade Zones	49311	General Warehousing and Storage (pt)
	Other	49319	All Other Warehousing and Storage Facilities
	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	48849	Other Support Activities for Road Transportation (pt)
4231@	United States Postal Service	49111	Postal Service
	Deep Sea Foreign Transportation of Freight	483111	Deep Sea Freight Transportation
	Deep Sea Domestic Transportation of Freight	483113	Coastal and Great Lakes Freight Transportation (pt)
	Freight Transportation on the Great Lakes - St. Lawrence Seaway	483113	Coastal and Great Lakes Freight Transportation (pt)

4449	Water Transportation of Freight, NEC	483211	Inland Water Freight Transportation (pt)
4481	Deep Sea Transportation of Passengers, Except by Ferry		
	Deep Sea Passenger Transportation	483112	Deep Sea Passenger Transportation
4482@	Coastal and Great Lakes Passenger Transportation	483114	Coastal and Great Lakes Passenger Transportation (pt)
	Ferries		
	Coastal and Great Lakes Ferries	483114	Coastal and Great Lakes Passenger Transportation (pt)
	Inland Water Ferries	483212	Inland Water Passenger Transportation (pt)
4489	Water Transportation of Passengers, NEC		
	Water Taxis	483212	Inland Water Passenger Transportation (pt)
	Airboats, Excursion Boats, and Sightseeing Boats	48721	Scenic and Sightseeing Transportation, Water (pt)
4491	Marine Cargo Handling		
	Dock and Pier Operations	48831	Port and Harbor Operations (pt)
	Except Dock and Pier Operations	48832	Marine Cargo Handling
4492@	Towing and Tugboat Services		
	Coastal and Great Lakes Barge Operations	483113	Coastal and Great Lakes Freight Transportation (pt)
	Inland Water Barge Operations	483211	Inland Water Freight Transportation (pt)
	Except Barge Operations	48833	Navigational Services to Shipping (pt)
4493	Marinas	71393	Marinas
4499@	Water Transportation Services, NEC		
	Boat and Ship Rental	532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing
	Seaway and Lighthouse Operations	48831	Port and Harbor Operations (pt)
	Marine Salvage and Piloting Vessels In and Out of Harbors	48833	Navigational Services to Shipping (pt)
	Other	48839	Other Support Activities for Water Transportation (pt)
4512	Air Transportation, Scheduled		

	Scheduled Passenger Air Transportation	481111	Scheduled Passenger Air Transportation
	Scheduled Freight Air Transportation	481112	Scheduled Freight Air Transportation
4513@	Air Courier Services	49211	Couriers (pt)
4522@	Air Transportation, Nonscheduled		
	Air Ambulance	62191	Ambulance Services (pt)
	Nonscheduled Charter Freight Air Transportation	481212	Nonscheduled Chartered Freight Air Transportation
	Nonscheduled Charter Passenger Air Transportation	481211	Nonscheduled Chartered Passenger Air Transportation
	Nonscheduled Speciality Air Transportation	48122	Nonscheduled Speciality Air Transportation
	Sightseeing airplanes	48799	Scenic and Sightseeing Transportation , Other (pt)
4581	Airports, Flying Fields, and Airport Terminal Services		
	Air Traffic Control	488111	Air Traffic Control
	Airfreight Handling at Airports, Hangar Operations, Airport Terminal Services, Aircraft Storage, Airports, and Flying Fields	488112	Airport Operations (except Air Traffic Control)
	Aircraft Cleaning and Janitorial Services	56172	Janitorial Services (pt)
	Aircraft Servicing and Repairing	48819	Other Support Activities for Air Transportation
4612	Crude Petroleum Pipelines	48611	Pipeline Transportation of Crude Oil
4613	Refined Petroleum Pipelines	48691	Pipeline Transportation of Refined Petroleum Products
4619	Pipelines, NEC	48699	All Other Pipeline Transportation
4724	Travel Agencies	56151	Travel Agencies
4725	Tour Operators	56152	Tour Operators
4729@	Arrangement of Passenger Transportation, NEC		
	Arrangement of Carpools and Vanpools	488999	All Other Support Activities for Transportation (pt)
	Except Arrangement of Carpools and Vanpools	561599	All Other Travel Arrangement and Reservation Services (pt)
4731	Arrangement of Transportation of Freight and Cargo		
	Freight Rate Auditors and Tariff Consultants	541618	Other Management Consulting Services (pt)

4741@	Except Freight Rate Auditors and Tariff Consultants	48851	Freight Transportation Arrangement
	Rental of Railroad Cars		
	Rental of Railroad Cars	532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing (pt)
	Grain Leveling in Railroad Cars, Grain Trimming for Railroad Equipment, Precooling of Fruits and Vegetables in Connection with Transportation, and Railroad Car Cleaning, Icing, Ventilating and Heating	48821	Support Activities for Rail Transportation (pt)
4783	Packing and Crating	488991	Packing and Crating
4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicle Transportation		
	Marine Cargo Checkers	48839	Other Support Activities for Water Transportation (pt)
	Except Marine Cargo Checkers	48849	Other Support Activities for Road Transportation (pt)
4789	Transportation Services, NEC		
	Pipeline Terminals and Stockyards for Transportation	488999	All Other Support Activities for Transportation (pt)
	Horse-drawn Cabs and Carriages	48711	Scenic and Sightseeing Transportation, Land (pt)
	Other	48821	Support Activities for Rail Transportation (pt)
4812@	Radiotelephone Communications		
	Paging Carriers	513321	Paging
	Cellular Carriers	513322	Cellular and Other Wireless Telecommunications (pt)
	Paging and Cellular Resellers	51333	Telecommunications Resellers (pt)
4813@	Telephone Communications, Except Radiotelephone		
	Except Resellers	51331	Wired Telecommunications Carriers (pt)
	Resellers	51333	Telecommunications Resellers (pt)
4822@	Telegraph and Other Message Communications	51331	Wired Telecommunications Carriers (pt)
4832	Radio Broadcasting Stations		
	Networks	513111	Radio Networks

4833	Stations	513112	Radio Stations
	Television Broadcasting Stations	51312	Television Broadcasting
4841	Cable and Other Pay Television Services		
	Cable Networks	51321	Cable Networks
	Except Cable Networks	51322	Cable and Other Program Distribution
4899	Communications Services, NEC		
	Radio Dispatch	513322	Cellular and Other Wireless Telecommunications (pt)
	Satellite Communications	51334	Satellite Telecommunications
	Except Radio Dispatch and Satellite Communications	51339	Other Telecommunications
4911	Electric Services		
	Hydroelectric Power Generation	221111	Hydroelectric Power Generation (pt)
	Electric Power Generation by Fossil Fuels	221112	Fossil Fuel Electric Power Generation (pt)
	Electric Power Generation by Nuclear Fuels	221113	Nuclear Electric Power Generation (pt)
	Other Electric Power Generation	221119	Other Electric Power Generation (pt)
	Electric Power Transmission and Control	221121	Electric Bulk Power Transmission and Control (pt)
	Electric Power Distribution	221122	Electric Power Distribution
4922	Natural Gas Transmission	48621	Pipeline Transportation of Natural Gas (pt)
4923@	Natural Gas Transmission and Distribution		
	Distribution	22121	Natural Gas Distribution (pt)
	Transmission	48621	Pipeline Transportation of Natural Gas (pt)
4924@	Natural Gas Distribution	22121	Natural Gas Distribution (pt)
4925@	Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution	22121	Natural Gas Distribution (pt)
4931@	Electric and Other Services Combined		

	Hydroelectric Power Generation When Combined with Other Services	221111	Hydroelectric Power Generation (pt)
	Electric Power Generation by Fossil Fuels When Combined with Other Services	221112	Fossil Fuel Electric Power Generation (pt)
	Electric Power Generation by Nuclear Fuels When Combined with Other Services	221113	Nuclear Electric Power Generation (pt)
	Other Electric Power Generation When Combined with Other Services	221119	Other Electric Power Generation (pt)
	Electric Power Transmission When Combined with Other Services	221121	Electric Bulk Power Transmission and Control (pt)
	Electric Power Distribution When Combined with Other Services	221122	Electric Power Distribution (pt)
	Natural Gas When Combined with Electric Services	22121	Natural Gas Distribution (pt)
4932@	Gas and Other Services Combined	22121	Natural Gas Distribution (pt)
4939@	Combination Utilities, NEC		
	Hydroelectric Power Generation When Combined with Other Services	221111	Hydroelectric Power Generation (pt)
	Electric Power Generation by Fossil Fuels When Combined with Other Services	221112	Fossil Fuel Electric Power Generation (pt)
	Electric Power Generation by Nuclear Fuels When Combined with Other Services	221113	Nuclear Electric Power Generation (pt)
	Other Power Generation When Combined with Other Services	221119	Other Electric Power Generation (pt)
	Electric Power Transmission When Combined with Other Services	221121	Electric Bulk Power Transmission and Control (pt)
	Electric Power Distribution When Combined with Other Services	221122	Electric Power Distribution (pt)
	Natural Gas Distribution when Combined with Other Services	22121	Natural Gas Distribution (pt)
4941	Water Supply	22131	Water Supply and Irrigation Systems (pt)
4952	Sewerage Systems	22132	Sewage Treatment Facilities

4953	Refuse Systems				
	Solid Waste Collection When Combined with Disposal	562111		Solid Waste Collection (pt)	
	Hazardous Waste Collection When Combined with Disposal	562112		Hazardous Waste Collection (pt)	
	Materials Recovery Facilities	56292		Materials Recovery Facilities	
	Other Waste Collection When Combined with Disposal	562119		Other Waste Collection	
	Hazardous Waste Treatment and Disposal	562211		Hazardous Waste Treatment and Disposal	
	Solid Waste Landfills	562212		Solid Waste Landfills	
	Solid Waste Combustors and Incinerators	562213		Solid Waste Combustors and Incinerators	
	Other Nonhazardous Waste Treatment and Disposal	562219		Other Nonhazardous Waste Treatment and Disposal	
4959	Sanitary Services, NEC				
	Vacuuming of Airport Runways	488112		Airport Operations (except Air Traffic Control)	
	Remediation Services	56291		Remediation Services	
	Malaria Control and Mosquito Eradication	56171		Exterminating and Pest Control Services	
	Other	562998		All Other Miscellaneous Waste Management	
4961	Steam and Air-Conditioning Supply	22133		Steam and Air-Conditioning Supply	
4971@	Irrigation Systems	22131		Water Supply and Irrigation Systems (pt)	
5012	Automobiles and Other Motor Vehicles	42111		Automobile and Other Motor Vehicle Wholesalers	
5013	Motor Vehicle Supplies and New Parts				
	Sold Via Retail Method	44131		Automotive Parts and Accessories Stores (pt) - Retail	
	Sold Via Wholesale Method	42112		Motor Vehicle Supplies and New Part Wholesalers (pt)	
5014	Tires and Tubes				
	Sold Via Retail Method	44132		Tire Dealers (pt.) - Retail	
	Sold Via Wholesale Method	42113		Tire and Tube Wholesalers	
5015	Motor Vehicle Parts, Used	42114		Motor Vehicle Part (Used) Wholesalers	

5021	Furniture				
	Sold Via Retail Method	44211	Furniture Stores (pt)		
	Sold Via Wholesale Method	42121	Furniture Wholesalers		
5023	Home Furnishings				
	Sold Via Retail Method	44221	Floor Covering Stores (pt)		
	Sold Via Wholesale Method	42122	Home Furnishing Wholesalers		
5031	Lumber, Plywood, Millwork, and Wood Panels				
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)		
	Sold Via Wholesale Method	42131	Lumber, Plywood, Millwork, and Wood Panel Wholesalers (pt)		
5032	Brick, Stone and Related Construction Materials				
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)		
	Sold Via Wholesale Method	42132	Brick, Stone and Related Construction Material Wholesalers		
5033	Roofing, Siding, and Insulation Materials	42133	Roofing, Siding, and Insulation Material Wholesalers		
5039	Construction Materials, NEC				
	Sold Via Retail Method	44419	Other Building Material Dealers (pt)		
	Sold Via Wholesale Method	42139	Other Construction Material Wholesalers		
5043	Photographic Equipment and Supplies	42141	Photographic Equipment and Supplies Wholesalers		
5044	Office Equipment	42142	Office Equipment Wholesalers		
5045	Computers and Computer Peripheral Equipment and Software				
	Sold Via Wholesale Method	42143	Computer and Computer Peripheral Equipment and Software Wholesalers		
	Sold Via Retail Method	44312	Computer and Software Stores (pt) - Retail		
5046	Commercial Equipment, NEC	42144	Other Commercial Equipment Wholesalers		
5047	Medical, Dental, and Hospital Equipment and Supplies				
	Sold Via Wholesale Method	42145	Medical, Dental and Hospital Equipment and Supplies Wholesalers		

	Sold Via Retail Method		446199	All Other Health and Personal Care Stores (pt) - Retail
5048	Ophthalmic Goods		42146	Ophthalmic Goods Wholesalers
5049	Professional Equipment and Supplies, NEC			
	Sold Via Wholesale Method		42149	Other Professional Equipment and Supplies Wholesalers
	Religious and School Supplies Sold Via Retail Method		45321	Office Supplies and Stationery Stores (pt) - Retail
5051	Metals Service Centers and Offices		42151	Metals Service Centers and Offices
5052	Coal and Other Minerals and Ores		42152	Coal and Other Mineral and Ore Wholesalers
5063	Electrical Apparatus and Equipment Wiring Supplies, and Construction Materials			
	Sold Via Retail Method		44419	Other Building Material Dealers (pt)
	Sold Via Wholesale Method		42161	Electrical Apparatus and Equipment, Wiring Supplies and Construction Material Wholesalers
5064	Electrical Appliances, Television and Radio Sets		42162	Electrical Appliance, Television and Radio Set Wholesalers
5065	Electronic Parts and Equipment, Not Elsewhere Classified		42169	Other Electronic Parts and Equipment Wholesalers
5072	Hardware		42171	Hardware Wholesalers
5074	Plumbing and Heating Equipment and Supplies (Hydronics)			
	Sold Via Retail Method		44419	Other Building Material Dealers (pt)
	Sold Via Wholesale Method		42172	Plumbing and Heating Equipment and Supplies (Hydronics) Wholesalers
5075	Warm Air Heating and Air-Conditioning Equipment and Supplies		42173	Warm Air Heating and Air-Conditioning Equipment and Supplies Wholesalers
5078	Refrigeration Equipment and Supplies		42174	Refrigeration Equipment and Supplies Wholesalers
5082	Construction and Mining (Except Petroleum) Machinery and Equipment		42181	Construction and Mining (except Petroleum) Machinery and Equipment Wholesalers
5083	Farm and Garden Machinery and Equipment			
	Sold Via Wholesale Method		42182	Farm and Garden Machinery and Equipment Wholesalers
	Garden and Lawn Equipment Sold Via Retail Method		44421	Outdoor Power Equipment Stores (pt) - Retail
5084	Industrial Machinery and Equipment		42183	Industrial Machinery and Equipment Wholesalers (pt)

5085	Industrial Supplies				
	Fluid Power Accessories	42183			Industrial Machinery and Equipment Wholesalers (pt)
	Reconditioning Barrels and Drums	81131			Commercial and Industrial Machinery and Equipment Repair and Maintenance
	Except Fluid Power Accessories and Reconditioning Barrels and Drums	42184			Industrial Supplies Wholesalers
5087	Service Establishment Equipment and Supplies				
	Sold Via Wholesale Method	42185			Service Establishment Equipment and Supplies Wholesalers
	Sold Via Retail Method	44612			Cosmetics, Beauty Supplies, and Perfume Stores (pt)
5088	Transportation Equipment and Supplies, Except Motor Vehicles	42186			Transportation Equipment and Supplies (except Motor Vehicles) Wholesalers
5091	Sporting and Recreational Goods and Supplies	42191			Sporting and Recreational Goods and Supplies Wholesalers
5092	Toys and Hobby Goods and Supplies	42192			Toy and Hobby Goods and Supplies Wholesalers
5093	Scrap and Waste Materials	42193			Recyclable Material Wholesalers
5094	Jewelry, Watches, Precious Stones, and Precious Metals	42194			Jewelry, Watch, Precious Stone, and Precious Metal Wholesalers
5099	Durable Goods, NEC	42199			Other Miscellaneous Durable Goods Wholesalers (pt)
5111	Printing and Writing Paper	42211			Printing and Writing Paper Wholesalers
5112	Stationery and Office Supplies				
	Sold Via Retail Method	45321			Office Supplies and Stationery Stores (pt)
	Sold Via Wholesale Method	42212			Stationery and Office Supplies Wholesalers
5113	Industrial and Personal Service Paper	42213			Industrial and Personal Service Paper Wholesalers
5122	Drugs, Drug Proprietaries, and Druggists' Sundries	42221			Drugs, Drug Proprietaries, and Druggists' Sundries Wholesalers
5131	Piece Goods, Notions, and Other Dry Goods				
	Piece Good Converters, Broadwoven Fabrics	313311			Broadwoven Fabric Finishing Mills (pt)
	Piece Good Converters, Except Broadwoven Fabrics	313312			Textile and Fabric Finishing (except Broadwoven Fabric) Mills (pt)
	Except Converters	42231			Piece Goods, Notions, and Other Dry Goods Wholesalers
5136	Men's and Boys' Clothing and Furnishings	42232			Men's and Boys' Clothing and Furnishings Wholesalers

5137	Women's Children's and Infants' Clothing and Accessories	42233	Women's, Children's, and Infants' Clothing and Accessories Wholesalers
5139	Footwear	42234	Footwear Wholesalers
5141	Groceries, General Line	42241	General Line Grocery Wholesalers
5142	Packaged Frozen Foods	42242	Packaged Frozen Food Wholesalers
5143	Dairy Products, Except Dried or Canned	42243	Dairy Products (except Dried or Canned) Wholesalers
5144	Poultry and Poultry Products	42244	Poultry and Poultry Product Wholesalers
5145	Confectionery	42245	Confectionery Wholesalers
5146	Fish and Seafoods	42246	Fish and Seafood Wholesalers
5147	Meats and Meat Products		
	Boxed Beef	311612	Meat Processed from Carcasses (pt)
	Except Boxed Beef	42247	Meat and Meat Product Wholesalers
5148	Fresh Fruits and Vegetables	42248	Fresh Fruit and Vegetable Wholesalers
5149	Groceries and Related Products, NEC	42249	Other Grocery and Related Product Wholesalers
5153	Grain and Field Beans	42251	Grain and Field Bean Wholesalers
5154	Livestock	42252	Livestock Wholesalers
5159	Farm-Product Raw Materials, NEC	42259	Other Farm Product Raw Material Wholesalers
5162	Plastics Materials and Basic Forms and Shapes	42261	Plastics Materials and Basic Forms and Shapes Wholesalers
5169	Chemicals and Allied Products, NEC	42269	Other Chemical and Allied Products Wholesalers
5171	Petroleum Bulk Stations and Terminals		
	Heating Oil Sold Via Retail Method	454311	Heating Oil Dealers (pt)
	LP Gas Sold Via Retail Method	454312	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt)
	Sold Via Wholesale Method	42271	Petroleum Bulk Stations and Terminals
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	42272	Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)
5181	Beer and Ale	42281	Beer and Ale Wholesalers

5182	Wine and Distilled Alcoholic Beverages	42282	Wine and Distilled Alcoholic Beverage Wholesalers
5191	Farm Supplies		
	Lawn and Garden Supplies Sold Via Retail Method	44422	Nursery and Garden Centers (pt) - Retail
	Except Lawn and Garden Supplies Sold Via Retail Method	42291	Farm Supplies Wholesalers
5192	Books, Periodicals, and Newspapers	42292	Book, Periodical and Newspaper Wholesalers
5193	Flowers, Nursery Stock, and Florists' Supplies		
	Sold Via Wholesale Method	42293	Flower, Nursery Stock and Florists' Supplies Wholesalers
	Sold Via Retail Method	44422	Nursery and Garden Centers (pt) - Retail
5194	Tobacco and Tobacco Products	42294	Tobacco and Tobacco Product Wholesalers
5198	Paint, Varnishes, and Supplies		
	Sold Via Wholesale Method	42295	Paint, Varnish and Supplies Wholesalers
	Sold Via Retail Method	44412	Paint and Wallpaper Stores (pt) - (Retail)
5199	Nondurable Goods, NEC		
	Advertising Specialties Goods Distributors	54189	Other Services Related to Advertising (pt)
	Except Specialty Advertising	42299	Other Miscellaneous Nondurable Goods Wholesalers
5211	Lumber and Other Building Materials Dealers		
	Home Centers	44411	Home Centers
	Sold Via Wholesale Method	42131	Lumber, Plywood, Millwork and Wood Panel Wholesalers (pt)
	Sold Via Retail Method, Except Home Centers and Glass	44419	Other Building Material Dealers (pt)
5231	Paint, Glass, and Wallpaper Stores		
	Paint and Wallpaper Sold Via Wholesale Method	42295	Paint, Varnish and Supplies Wholesalers (pt)
	Glass Stores	44419	Other Building Material Dealers (pt)
	Paint and Wallpaper Sold Via Retail Method	44412	Paint and Wallpaper Stores (pt)
5251	Hardware Stores	44413	Hardware Stores

5261	Retail Nurseries, Lawn and Garden Supply Stores				
	Except Cut Christmas Trees and Outdoor Power Equipment	44422			Nursery and Garden Centers (pt)
	Cut Christmas Trees	453999			All Other Miscellaneous Store Retailers (except Tobacco Stores) (pt)
	Outdoor Power Equipment Stores	44421			Outdoor Power Equipment Stores (pt)
5271	Mobile Home Dealers	45393			Manufactured (Mobile) Home Dealers
5311	Department Stores	45211			Department Stores
5331	Variety Stores	45299			All Other General Merchandise Stores (pt)
5399	Miscellaneous General Merchandise Stores				
	Warehouse Clubs and General Merchandise Combination Stores	45291			Warehouse Clubs and Superstores (pt)
	All Other General Merchandise Stores	45299			All Other General Merchandise Stores (pt)
5411	Grocery Stores				
	Convenience Stores with Gas	44711			Gasoline Stations with Convenience Stores (pt)
	Supermarkets and Grocery Stores with Little General Merchandise	44511			Supermarkets and Other Grocery (except Convenience) Stores
	Supermarkets and Grocery Stores with Substantial General Merchandise	45291			Warehouse Clubs and Superstores (pt)
	Convenience Stores without Gas	44512			Convenience Stores
5421	Meat and Fish (Seafood) Markets, Including Freezer Provisioners				
	Freezer Provisioners	45439			Other Direct Selling Establishments (pt)
	Meat Markets	44521			Meat Markets
	Fish and Seafood Markets	44522			Fish and Seafood Markets
5431	Fruit and Vegetable Markets	44523			Fruit and Vegetable Markets
5441	Candy, Nut, and Confectionery Stores	445292			Confectionary and Nut Stores
5451	Dairy Products Stores	445299			All Other Specialty Food Stores (pt)
5461	Retail Bakeries				

	Donut Shops, Pretzel Shops, Cookie Shops, Bagel Shops, and Other Such Shops that Make and Sell for Immediate Consumption	722213	Snack and Nonalcoholic Beverage Bars (pt)
	Bakeries That Make and Sell at the Same Location	311811	Retail Bakeries
	Sales Only of All Other Baked Goods	445291	Baked Goods Stores
5499	Miscellaneous Food Stores		
	Poultry and Poultry Products	44521	Meat Markets (pt)
	Coffee Shops Making and Serving Food and Beverages for Immediate Consumption	722211	Limited-Service Restaurants (pt)
	Food Supplement Stores	446191	Food (Health) Supplement Stores
	All Other Miscellaneous Food Stores	445299	All Other Specialty Food Stores (pt)
5511	Motor Vehicle Dealers (New and Used)	44111	New Car Dealers
5521	Motor Vehicle Dealers (Used Only)	44112	Used Car Dealers
5531	Auto and Home Supply Stores		
	Tire Dealers	44132	Tire Dealers (pt)
	All Other Auto and Home Supply Stores	44131	Automotive Parts and Accessories Stores (pt)
5541	Gasoline Service Stations		
	Convenience Store with Gas	44711	Gasoline Stations with Convenience Store (pt)
	Except with Convenience Stores	44719	Other Gasoline Stations
5551	Boat Dealers	441222	Boat Dealers
5561	Recreational Vehicle Dealers	44121	Recreational Vehicle Dealers
5571	Motorcycle Dealers	441221	Motorcycle Dealers
5599	Automotive Dealers, NEC		
5611	Men's and Boys' Clothing and Accessory Stores	441229	All Other Motor Vehicle Dealers
	Men's Clothing Stores	44811	Men's Clothing Stores
	Men's Accessory Stores	44815	Clothing Accessories Stores (pt)

5621	Women's Clothing Stores	44812	Women's Clothing Stores
5632	Women's Accessory and Specialty Stores		
	Specialty Stores	44819	Other Clothing Stores (pt)
	Accessory Stores	44815	Clothing Accessories Stores (pt)
5641	Children's and Infants' Wear Stores	44813	Children's and Infants' Clothing Stores
5651	Family Clothing Stores	44814	Family Clothing Stores
5661	Shoe Stores	44821	Shoe Stores
5699	Miscellaneous Apparel and Accessory Stores		
	Custom Tailors and Seamstresses	315	Included in Apparel Manufacturing Subsector Based on Type of Garment Produced
	Miscellaneous Apparel	44819	Other Clothing Stores (pt)
	Miscellaneous Accessories	44815	Accessories Stores (pt)
5712	Furniture Stores		
	Custom Made Furniture, Except Cabinets and Upholstered	337133	Wood Household Furniture (except Upholstered) Manufacturing (pt)
	Custom Wood Cabinets	337131	Wood Kitchen Cabinet and Counter Top Manufacturing (pt)
	Upholstered Custom Made Furniture	337132	Upholstered Wood Household Furniture Manufacturing (pt.)
	Except Custom Cabinet and Furniture Builders	44211	Furniture Stores (pt.)
5713	Floor Covering Stores	44221	Floor Covering Stores (pt)
5714	Drapery, Curtain, and Upholstery Stores		
	Drapery and Curtain Stores	442291	Window Treatment Stores (pt)
	Upholstery Stores	45113	Sewing, Needlework and Piece Goods Stores (pt)
	Custom Drapes	314121	Curtain and Drapery Mills (pt)
5719	Miscellaneous Homefurnishings Stores		
	Blinds and Shades	442291	Window Treatment Stores (pt)
	Pottery and Crafts Made and Sold on Site		Included in Manufacturing sector based on article produced

	Except Blinds, Shades, and Pottery and Crafts Made and Sold on Site	442299	All Other Home Furnishings Stores
5722	Household Appliance Stores	443111	Household Appliance Stores (pt)
5731	Radio, Television, and Consumer Electronics Stores		
	Except Auto Radio Stores	443112	Radio, Television, and Other Electronics Stores
	Auto Radio Stores	44131	Automotive Parts and Accessories Stores (pt)
5734	Computer and Computer Software Stores	44312	Computer and Software Stores (pt)
5735	Record and Pre-recorded Tape Stores	45122	Pre-recorded Tape, Compact Disc and Record Stores
5736	Musical Instrument Stores	45114	Musical Instrument and Supplies Stores
5812@	Eating and Drinking Places		
	Full Service Restaurants	72211	Full-Service Restaurants
	Limited Service Restaurants	722211	Limited-Service Restaurants
	Cafeterias	722212	Cafeterias
	Snack Nonalcoholic Beverage Bars	722213	Snack and Nonalcoholic Beverage Bars (pt)
	Food Service Contractors	72231	Foodservice Contractors
	Caterers	72232	Caterers
	Dinner Theaters	71111	Theater Companies and Dinner Theaters (pt)
5813	Drinking Places (Alcoholic Beverages)	72241	Drinking Places (Alcoholic Beverages)
5912	Drug Stores and Proprietary Stores	44611	Pharmacies and Drug Stores
5921	Liquor Stores	44531	Beer, Wine and Liquor Stores
5932	Used Merchandise Stores		
	Pawn Shops	522298	All Other Non-Depository Credit Intermediation (pt)
	Except pawn shops	45331	Used Merchandise Stores
5941	Sporting Goods Stores and Bicycle Shops	45111	Sporting Goods Stores (pt)
5942	Book Stores	451211	Book Stores

5943	Stationery Stores	45321	Office Supplies and Stationery Stores (pt)
5944	Jewelry Stores	44831	Jewelry Stores
5945	Hobby, Toy, and Game Shops	45112	Hobby, Toy and Game Stores
5946	Camera and Photographic Supply Stores	44313	Camera and Photographic Supplies Stores
5947	Gift, Novelty, and Souvenir Shops	45322	Gift, Novelty and Souvenir Stores
5948	Luggage and Leather Goods Stores	44832	Luggage and Leather Goods Stores
5949	Sewing, Needlework, and Piece Goods Stores	45113	Sewing, Needlework and Piece Goods Stores (pt)
5961	Catalog and Mail-Order Houses	45411	Electronic Shopping and Mail-Order Houses
5962	Automatic Merchandising Machine Operator	45421	Vending Machine Operators
5963	Direct Selling Establishments		
	Mobile Food Service	72233	Mobile Caterers
	All Other Direct Selling Establishments	45439	Other Direct Selling Establishments (pt)
5983	Fuel Oil Dealers	454311	Heating Oil Dealers (pt)
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	454312	Liquefied Petroleum Gas (Bottled Gas) Dealers (pt)
5989	Fuel Dealers, NEC	454319	Other Fuel Dealers
5992	Florists	45311	Florists
5993	Tobacco Stores and Stands	453991	Tobacco Stores
5994	News Dealers and Newsstands	451212	News Dealers and Newsstands
5995	Optical Goods Stores		
	Optical Stores Grinding Prescription Lenses, except 1-Hour Labs	339117	Eyeglass and Contact Lens Manufacturing (pt)
	Except Optical Laboratories Grinding Prescription Lenses	44613	Optical Goods Stores
5999	Miscellaneous Retail Stores, NEC		
	Cosmetic Stores	44612	Cosmetics, Beauty Supplies and Perfume Stores (pt)
	Hearing Aid and Artificial Limb Stores	446199	All Other Health and Personal Care Stores (pt)

6011	Pets and Pet Supply Stores	45391	Pet and Pet Supplies Stores
	Art Dealers	45392	Art Dealers
	Personal Appliance Stores	443111	Household Appliance Stores (pt)
	Telephone and Typewriter Stores	443112	Radio, Television and Other Electronics Stores (pt.)
	Rough Gem Stores	44831	Jewelry Stores (pt)
	Other Miscellaneous Retail Stores	453999	All Other Miscellaneous Store Retailers (except Tobacco Stores) (pt)
	Federal Reserve Banks	52111	Monetary Authorities-Central Banks
6019@	Central Reserve Depository Institutions, NEC	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt)
6021@	National Commercial Banks		
	Commercial Banks	52211	Commercial Banking (pt)
	Credit Card Issuing	52221	Credit Card Issuing (pt)
	Trust Services	523991	Trust, Fiduciary and Custody Activities (pt)
6022@	State Commercial Banks		
	Commercial Banks	52211	Commercial Banking (pt)
	Credit Card Issuing	52221	Credit Card Issuing (pt)
	Private and Industrial Banking	52219	Other Depository Intermediation
	Trust Services	523991	Trust, Fiduciary and Custody Activities (pt)
6029@	Commercial Banks, NEC	52211	Commercial Banking (pt)
6035@	Savings Institutions, Federally Chartered	52212	Savings Institutions (pt)
6036@	Savings institutions, Not Federally Chartered	52212	Savings Institutions (pt)
6061@	Credit Unions, Federally Chartered	52213	Credit Unions (pt)
6062@	Credit Unions, Not Federally Chartered	52213	Credit Unions (pt)
6081@	Branches and Agencies of Foreign Banks		
	International Trade Financing	522293	International Trade Financing (pt)

6082@	Branches of Foreign Banks	52211	Commercial Banking (pt)
	Agencies of Foreign Banks	522298	All Other Non-Depository Credit Intermediation (pt)
	Foreign Trade and International Banking Institutions	522293	International Trade Financing (pt)
	Nondeposit Trust Facilities	523991	Trust, Fiduciary, and Custody Activities (pt)
6091@	Functions Related to Deposit Banking, NEC		
	Clearinghouses and Electronic Funds Transfer	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt)
	Foreign Currency Exchange	52313	Commodity Contracts Dealing (pt)
	Escrow and Fiduciary Agencies	523991	Trust, Fiduciary, and Custody Activities (pt)
6099@	Deposit Brokers	523999	Miscellaneous Financial Investment Activities (pt)
	Other	52239	Other Activities Related to Credit Intermediation (pt)
6111@	Federal and Federally Sponsored Credit Agencies		
	Trade Banks	522293	International Trade Financing (pt)
	Secondary Market Financing	522294	Secondary Market Financing
	Other	522298	All Other Non-Depository Credit Intermediation (pt)
6141@	Personal Credit Institutions		
	Credit Card Issuing	52221	Credit Card Issuing (pt)
	Installment Sales Financing	52222	Sales Financing (pt)
	Other	522291	Consumer Lending
6153@	Short-Term Business Credit Institutions, Except Agricultural		
	Business Sales Finance	52222	Sales Financing (pt)
	Credit Card Service	52232	Financial Transactions Processing, Reserve, and Clearing House Activities (pt)
	Other	522298	All Other Non-Depository Credit Intermediation (pt)
6159@	Miscellaneous Business Credit Institutions		
	Finance Leasing	52222	Sales Financing (pt)

	Trade Banks	522293	International Trade Financing (pt)
	All Other	522298	All Other Non-Depository Credit Intermediation (pt)
6162@	Mortgage Bankers and Loan Correspondents		
	Mortgage Bankers and Originators	522292	Real Estate Credit
	Mortgage Servicing	52239	Other Activities Related to Credit Intermediation (pt)
6163	Loan Brokers	52231	Mortgage and Other Loan Brokers
6211@	Security Brokers, Dealers, and Flotation Companies		
	Security Dealers and Underwriters	52311	Investment Banking and Securities Dealing
	Security Brokers	52312	Securities Brokerage
	Dealers, Except Securities and Commodities	52391	Miscellaneous Intermediation (pt.)
	Other	523999	Miscellaneous Financial Investment Activities (pt.)
6221@	Commodity Contracts Brokers and Dealers		
	Commodity Dealers	52313	Commodity Contracts Dealing (pt)
	Commodity Brokers	52314	Commodity Brokerage
6231	Security and Commodity Exchanges	52321	Securities and Commodity Exchanges
6282@	Investment Advice		
	Portfolio Managers	52392	Portfolio Management (pt)
	Other	52393	Investment Advice
6289@	Services Allied With the Exchange of Securities or Commodities, NEC		
	Securities Custodians	523991	Trust, Fiduciary, and Custody Activities (pt)
	Other	523999	Miscellaneous Financial Investment Activities (pt)
6311@	Life Insurance		
	Life Insurers-Direct	524113	Direct Life Insurance Carriers
	Reinsurance Carriers, Life	52413	Reinsurance Carriers (pt)

6321@	Accident and Health Insurance			
	Health and Medical Insurers-Direct	524114	Direct Health and Medical Insurance Carriers (pt)	
	Self Insurers	52519	Other Insurance Funds (pt)	
6324@	Reinsurance Carriers, Accident and Health	52413	Reinsurance Carriers (pt)	
	Hospital and Medical Service Plans			
	Health and Medical Insurers-Direct	524114	Direct Health and Medical Insurance Carriers (pt)	
6331@	Self Insurers	52519	Other Insurance Funds (pt)	
	Reinsurance Carriers, Health and Medical	52413	Reinsurance Carriers (pt)	
	Fire, Marine, and Casualty Insurance			
6351@	Fire, Marine, and Casualty Insurers-Direct	524126	Direct Property and Casualty Insurance Carriers (pt)	
	Self Insurers	52519	Other Insurance Funds (pt)	
	Reinsurance Carriers, Fire, Marine, and Casualty	52413	Reinsurance Carriers (pt)	
6361@	Surety Insurance			
	Financial Responsibility Insurers-Direct	524126	Direct Property and Casualty Insurance Carriers (pt)	
	Reinsurance Carriers, Financial Responsibility	52413	Reinsurance Carriers (pt)	
6371@	Title Insurance			
	Title Insurers-Direct	524127	Direct Title Insurance Carriers (pt)	
	Reinsurance Carriers, Title	52413	Reinsurance Carriers (pt)	
6399	Pension, Health, and Welfare Funds			
	Managers	52392	Portfolio Management	
	Administrators	524292	Third Party Administration for Insurance and Pension Funds (pt)	
	Pension Funds	52511	Pension Funds (pt)	
	Health and Welfare Funds	52512	Health and Welfare Funds (pt)	
	Insurance Carriers, NEC	524128	Other Direct Insurance Carriers (except Life, Health, and Medical)	

6411@	Insurance Agents, Brokers, and Service				
	Insurance Agents and Brokers		52421	Insurance Agencies and Brokerages	
	Claim Adjusters		524291	Claims Adjusters	
	Claim Processors		524292	Third Party Administrators for Insurance and Pension Funds (pt)	
6512	Other		524298	All Other Insurance Related Activities	
	Operators of Nonresidential Buildings				
	Stadium and Arena Owners		71131	Promoters of Performing Arts, Sports and Similar Events with Facilities	
	Except Stadium and Arena Owners		53112	Lessors of Nonresidential Buildings (except Miniwarehouses)	
	Operators of Apartment Buildings		53111	Lessors of Residential Buildings and Dwellings (pt)	
	Operators of Dwellings Other Than Apartment Buildings		53111	Lessors of Residential Buildings and Dwellings (pt)	
	Operators of Residential Mobile Home Sites		53119	Lessors of Other Real Estate Property(pt)	
	Lessors of Railroad Property		53119	Lessors of Other Real Estate Property (pt)	
	Lessors of Real Property, NEC		53119	Lessors of Other Real Estate Property (pt)	
	Real Estate Agents and Managers				
	Real Estate Agents and Brokers		53121	Offices of Real Estate Agents and Brokers	
	Condominium Associations		81399	Other Similar Organizations (pt)	
6541	Residential Property Managers		531311	Residential Property Managers	
	Nonresidential Property Managers		531312	Nonresidential Property Managers	
	Real Estate Appraisers		53132	Offices of Real Estate Appraisers	
	Cemetery Management		81222	Cemeteries and Crematories (pt)	
	Other		531399	All Other Activities Related to Real Estate	
	Title Abstract Offices		541191	Title Abstract and Settlement Offices	
	Land Subdividers and Developers, Except Cemeteries		23311	Land Subdivision and Land Development	
	Cemetery Subdividers and Developers		81222	Cemeteries and Crematories (pt.)	
6552					
6553@					

6712	Offices of Bank Holding Companies	551111	Offices of Bank Holding Companies
6719	Offices of Holding Companies, NEC	551112	Offices of Other Holding Companies
6722	Management Investment Offices, Open-End	52591	Open-End Investment Funds
6726	Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices	52599	Other Financial Vehicles
6732	Education, Religious, and Charitable Trusts	813211	Grantmaking Foundations
6733@	Trusts, Except Educational, Religious, and Charitable Managers	52392	Portfolio Management (pt)
	Administrators of Private Estates	523991	Trust, Fiduciary, and Custody Services (pt)
	Vacation Funds for Employees	52519	Other Insurance and Employee Benefit Funds (pt)
	Personal Trusts, Estates, and Agency Accounts	52592	Trusts, Estates, and Agency Accounts (pt)
6792@	Oil Royalty Traders		
	Investors on Own Account	523999	Miscellaneous Financial Investment Activities (pt.)
	Oil Royalty Trading Companies	53311	Owners and Lessors of Other Non-Financial Assets
6794	Patent Owners and Lessors	53311	Owners and Lessors of Other Non-Financial Assets
6798	Real Estate Investment Trusts	52593	Mortgage Investment Funds
6799@	Investors, NEC		
	Venture Capital Companies	52391	Miscellaneous Intermediation (pt)
	Pool Operators	52392	Portfolio Management (pt)
	Commodity Contract Trading Companies	52313	Commodity Contracts Dealing (pt)
	Other	523999	Miscellaneous Financial Investment Activities (pt)
7011	Hotels and Motels		
	Hotels and Motels, except Casino Hotels	72111	Hotels (except Casino Hotels) and Motels (pt)
	Casino Hotels	72112	Casino Hotels
	Bed and Breakfast Inns	721191	Bed and Breakfast Inns

	Other				
	Rooming and Boarding Houses	721199		All Other Traveler Accommodations	
7021		72131		Rooming and Boarding Houses (pt)	
7032	Sporting and Recreational Camps	721214		Recreational and Vacation Camps	
7033	Recreational Vehicle Parks and Campsites	721211		RV (Recreational Vehicle Parks) and Campgrounds	
7041@	Organization Hotels and Lodging Houses, on Membership Basis				
	Organization Hotels	72111		Hotels (except Casino Hotels) and Motels (pt)	
	Other	72131		Rooming and Boarding Houses (pt)	
7211	Power Laundries, Family and Commercial	812321		Laundries, Family and Commercial	
7212	Garment Pressing, and Agents for Laundries	812391		Garment Pressing and Agents for Laundries	
7213@	Linen Supply	812331		Linen Supply (pt.)	
7215	Coin-Operated Laundry and Drycleaning	81231		Coin-Operated Laundries and Drycleaners	
7216	Drycleaning Plants, Except Rug Cleaning	812322		Drycleaning Plants	
7217	Carpet and Upholstery Cleaning	56174		Carpet and Upholstery Cleaning Services	
7218	Industrial Launderers	812332		Industrial Launderers	
7219@	Laundry and Garment Services, NEC				
	Diaper Service	812331		Linen Supply (pt)	
	Clothing Alteration and Repair	81149		Other Personal and Household Goods Repair and Maintenance (pt)	
	Except Diaper Service and Clothing Alteration and Repair	812399		All Other Laundry Services	
7221	Photographic Studios, Portrait	541921		Photographic Studios, Portrait	
7231@	Beauty Shops				
	Beauty Shops and Salons	812112		Beauty Salons	
	Manicure and Pedicure Salons	812113		Nail Salons	
	Beauty and Cosmetology Schools	611511		Cosmetology and Barber Schools (pt)	
7241	Barber Shops				

7251	Barber Shops	812111	Barber Shops
7261	Barber Colleges	611511	Cosmetology and Barber Schools (pt)
	Shoe Repair Shops and Shoeshine Parlors	81143	Footwear and Leather Goods Repair (pt)
	Funeral Services and Crematories		
	Funeral Homes	81221	Funeral Homes
	Except Funeral Homes	81222	Cemeteries and Crematories (pt)
7291	Tax Return Preparation Services	541213	Tax Preparation Services
7299@	Miscellaneous Personal Services, NEC		
	Babysitting Services	62441	Child Day Care Services (pt)
	Locker Rental, Except Cold Storage	532299	All Other Consumer Goods Rental (pt)
	Diet and Weight Reducing Services	812191	Diet and Weight Reducing Centers
	Formal Wear and Costume Rental	53222	Formal Wear and Costumes Rental
	Personal Care Services	812199	Other Personal Care Services
	All Other Miscellaneous Personal Services, NEC	81299	All Other Personal Services
7311	Advertising Agencies	54181	Advertising Agencies
7312	Outdoor Advertising Services	54185	Display Advertising (pt)
7313	Radio, Television, and Publishers' Advertising Representatives	54184	Media Representatives
7319	Advertising, NEC		
	Aerial Advertising When Combined With a Variety of Aircraft-based Services	48122	Nonscheduled Specialty Air Transportation (pt)
	Media Buying Services	54183	Media Buying Agencies
	Display Advertising, Except Outdoor	54185	Display Advertising (pt)
	Advertising Materials Distributor Services	54187	Advertising Material Distribution Services
	Other	54189	Other Services Related to Advertising (pt.)
7322	Adjustment and Collection Services		

	Collection Services	56144	Collection Agencies
	Adjustment Bureaus	561491	Repossession Services (pt)
7323	Credit Reporting Services	56145	Credit Bureaus
7331	Direct Mail Advertising Services	54186	Direct Mail Advertising
7334	Photocopying and Duplicating Services	561431	Photocopying and Duplicating Services
7335	Commercial Photography		
	Aerial Photography When Combined With a Variety of Aircraft-based Services	48122	Nonscheduled Specialty Air Transportation (pt)
	Except When Combined With a Variety of Aircraft-based Services	541922	Commercial Photography (pt)
7336	Commercial Art and Graphic Design	54143	Commercial Art and Graphic Design Services (pt)
7338	Secretarial and Court Reporting Services		
	Secretarial Services	56141	Document Preparation Services
	Court Reporting Services	561492	Court Reporting and Stenotype Services
7342	Disinfecting and Pest Control Services		
	Disinfecting Services	56172	Janitorial Services (pt)
	Exterminating and Pest Control Services	56171	Exterminating and Pest Control Services (pt)
7349	Building Cleaning and Maintenance Services, NEC	56172	Janitorial Services (pt)
7352@	Medical Equipment Rental and Leasing		
	Home Health Furniture and Equipment Rental and Leasing	532291	Home Health Equipment Rental
	Medical Machinery Rental and Leasing	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing (pt)
7353@	Heavy Construction Equipment Rental and Leasing		
	With Operator	23499	All Other Heavy Construction
	Without Operator	532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing (pt)

7359@	Equipment Rental and Leasing, NEC		
	Consumer Electronics and Appliances Rental	53221	Consumer Electronics and Appliances Rental
	General Rental Centers	53231	General Rental Centers
	Residential Furniture, Party Supplies, and All Other Miscellaneous Consumer Goods Rental and Leasing	532299	All Other Consumer Goods Rental (pt)
	Oilfield and Well Drilling Machinery and Equipment Rental and Leasing	532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing (pt)
	Airplane Rental and Leasing	532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing (pt)
	Portable Toilet Rental	562991	Septic Tank and Related Services (pt)
	Office Machinery and Equipment Rental and Leasing	53242	Office Machinery and Equipment Rental and Leasing (pt)
	Industrial Trucks Rental and Leasing	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing (pt)
	Employment Agencies		
	Executive Placing Services	541612	Human Resources and Executive Search Consulting Services (pt)
	Except Executive Placing Services	56131	Employment Placement Agencies (pt)
	Help Supply Services		
	Temporary Help Supply	56132	Temporary Help Services
7363	Employee Leasing Services	56133	Employee Leasing Services
	Computer Programming Services	541511	Custom Computer Programming Services
7371	Prepackaged Software		
	Software Publishing	51121	Software Publishers
7372	Reproduction of Software	334611	Software Reproducing
	Computer Integrated Systems Design	541512	Computer Systems Design Services (pt)
7373	Computer Processing and Data Preparation and Processing Services	51421	Data Processing Services
7374	Information Retrieval Services	514191	On-Line Information Services
7375			

7376	Computer Facilities Management Services	541513	Computer Facilities Management Services
7377	Computer Rental and Leasing	53242	Office Machinery and Equipment Rental and Leasing (pt)
7378	Computer Maintenance and Repair		
	Sales Locations Providing Supporting Repair Services as Major Source of Revenue	44312	Computer and Software Stores (pt)
	All Other Repair and Maintenance	811212	Computer and Office Machine Repair and Maintenance (pt)
7379	Computer Related Services, NEC		
	Computer Systems Consultants	541512	Computer Systems Design Services (pt.)
	Except Computer Systems Consultants	541519	Other Computer Related Services
7381	Detective, Guard, and Armored Car Services		
	Detective Services	561611	Investigation Services
	Guard Services	561612	Security Guards and Patrol Services
	Armored Car Services	561613	Armored Car Services
7382	Security Systems Services	561621	Security Systems Services (except Locksmiths) (pt)
7383	News Syndicates	51411	New Syndicates
7384	Photofinishing Laboratories		
	Photofinishing Laboratories (Except One-Hour)	812921	Photo Finishing Laboratories (except One-Hour)
	One-Hour Photofinishing	812922	One-Hour Photo Finishing
7389	Business Services, NEC		
	Sound Recording Studios	51224	Sound Recording Studios
	Audio Taping Services	51229	Other Sound Recording Industries (pt.)
	Process Services, Patent Agents, Notaries Public and Paralegal Services	541199	Other Legal Services
	Bail Handling	81299	All Other Personal Services
	Mapmaking Services	54137	Surveying and Mapping (except Geophysical) Services (pt)

Interior Design	54141	Interior Design Services
Industrial Design	54142	Industrial Design Services
Drafting Service	54134	Drafting Services
Fashion, Furniture and Other Design Services	54149	Other Specialized Design Services
Sign Painting and Other Advertising Related Business Services	54189	Other Services Related to Advertising
Translation and Interpretation Services	54193	Translation and Interpretation Services
Home and Building Inspection Services	54135	Building Inspection Services
Appraisers, Except Insurance and Real Estate, and Miscellaneous Professional, Scientific, and Technical Services	54199	All Other Professional, Scientific and Technical Services
Agents and Brokers for Authors and Artists	71141	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures (pt)
Telephone Answering Services	561421	Telephone Answering Services
Telemarketing Bureaus and Telephone Soliciting Services	561422	Telemarketing Bureaus
Private Mail Centers and Mail Box Rental	561432	Private Mail Centers
Recovery and Repossess	561491	Repossession Services (pt)
Packaging and Labeling Services	56191	Packaging and Labeling Services
Swimming Pool Cleaning and Maintenance	56179	Other Services to Dwellings and Buildings (pt)
Hotel and Restaurant Reservation Services	561599	All Other Travel Arrangement and Reservation Services (pt)
Convention and Trade Show Services	56192	Convention and Trade Show Organizers
Convention and Visitors Bureaus and Tourist Information Service	561591	Convention and Visitors Bureaus
Credit Card Services	52232	Financial Transactions, Processing, Reserve and Clearing House Activities (pt)
Business Support Services, Except Telephone Answering, Telemarketing Bureaus, Private Mail Centers, and Repossession Services	561499	All Other Business Support Services
All Other Support Services	56199	All Other Support Services
Truck Rental and Leasing, Without Drivers	53212	Truck, Utility Trailer and RV (Recreational Vehicle) Rental and Leasing (pt)

7514	Passenger Car Rental	532111	Passenger Cars Rental
7515	Passenger Car Leasing	532112	Passenger Cars Leasing
7519	Utility Trailer and Recreational Vehicle Rental	53212	Truck, Utility Trailer and RV (Recreational Vehicles) Rental and Leasing (pt)
7521	Automobile Parking	81293	Parking Lots and Garages
7532	Top, Body, and Upholstery Repair Shops and Paint Shops	811121	Automotive Body, Paint, and Upholstery Repair and Maintenance
7533	Automotive Exhaust System Repair Shops	811112	Automotive Exhaust System Repair
7534@	Tire Retreading and Repair Shops		
	Retreading	326212	Tire Retreading
	Repair	811198	All Other Automotive Repair and Maintenance (pt)
7536	Automotive Glass Replacement Shops	811122	Automotive Glass Replacement Shops
7537	Automotive Transmission Repair Shops	811113	Automotive Transmission Repair
7538	General Automotive Repair Shops	811111	General Automotive Repair
7539	Automotive Repair Shops, NEC	811118	Other Automotive Mechanical and Electrical Repair and Maintenance
7542	Carwashes	811192	Car Washes
7549@	Automotive Services, Except Repair and Carwashes		
	Lubricating Services, Automotive	811191	Automotive Oil Change and Lubrication Shops
	Towing	48841	Motor Vehicle Towing
	Except Lubricating Services and Towing	811198	All Other Automotive Repair and Maintenance
7622	Radio and Television Repair Shops		
	Stereo, TV, VCR, and Radio Repair	811211	Consumer Electronics Repair and Maintenance (pt)
	Telecommunication Equipment Repair	811213	Communication Equipment Repair and Maintenance (pt)
	Radio and TV Sales Locations Providing Supporting Repair Services As Major Source of Revenue	443112	Radio, Television and Other Electronics Stores (pt)
7623	Refrigeration and Air-Conditioning Services and Repair Shops		

7629	Refrigerator and A/C Sales Locations Providing Supporting Repair Service as Major Source of Revenue	443111	Household Appliance Stores (pt)
	Commercial Refrigerator Equipment Repair	81131	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance (pt)
	Except Commercial	811412	Appliance Repair and Maintenance (pt)
	Electrical and Electronic Repair Shops, NEC		
	Appliance Sales Locations Providing Supporting Repair Services As Major Source of Revenue	443111	Household Appliance Stores (pt)
	Business and Office Machine Repair, Electrical	811212	Computer and Office Machine Repair and Maintenance (pt)
	Telephone Set Repair	811213	Communication Equipment Repair and Maintenance (pt)
	Electrical Measuring Instrument Repair and Calibration, Medical Equipment Repair, Electrical	811219	Other Electronic and Precision Equipment Repair and Maintenance (pt)
	Appliance Repair, Electrical; Washing Machine Repair, Electric Razor Repair	811412	Appliance Repair and Maintenance (pt)
	Consumer Electronic Equipment Repair Except Computer, Radio, Television, Stereo, and VCR	811211	Consumer Electronics Repair and Maintenance (pt)
7631@	Watch, Clock, and Jewelry Repair	81149	Other Personal and Household Goods Repair and Maintenance (pt)
7641	Reupholster and Furniture Repair	81142	Reupholstery and Furniture Repair
7692@	Welding Repair	81149	Other Personal and Household Goods Repair and Maintenance (pt)
7694@	Armature Rewinding Shops		
	Repair	81131	Commercial and Industrial Machinery and Equipment Repair and Maintenance (pt)
	Remanufacturing	335312	Motor and Generator Manufacturing
7699	Repair Shops and Related Services, NEC		
	Locksmith Shops	561622	Locksmiths
	Cesspool Cleaning, Sewer Cleaning and Rodding	562991	Septic Tank and Related Services (pt)
	Furnace Ducts, Chimney and Gutter Cleaning Services	56179	Other Services to Buildings and Dwellings (pt)
	Ship Sealing	48839	Other Supporting Activities for Water Transportation (pt)

7812	Bicycle Sales Locations Providing Supporting Repair Services As Major Source of Revenue	45111	Sporting Goods Stores (pt)
	Other Non-Automotive Transportation Equipment and Industrial Machinery and Equipment	81131	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance (pt)
7819	Farriers	11521	Support Activities for Animal Production (pt)
	Typewriter Repair	811212	Computer and Office Machine Repair and Maintenance (pt)
7812	Dental Instrument Repair, Laboratory Instrument Repair, Medical Equipment and Other Electronic and Precision Equipment Repair, Except Typewriters	811219	Other Electronic and Precision Equipment Repair and Maintenance (pt)
	Lawnmower Repair Shops, Sharpening and Repairing Knives, Saws and Tools	811411	Home and Garden Equipment Repair and Maintenance (pt)
7819	Gas Appliance Repair Service, Sewing Machine Repair, Stove Repair Shops, and Other Non-Electrical Appliances	811412	Appliance Repair and Maintenance (pt)
	Leather Goods Repair Shops, Luggage Repair Shops, Pocketbook Repair Shops	81143	Footwear and Leather Goods Repair (pt)
7812	Except Industrial, Electronic, Home and Garden, Appliance, Locksmith, and Leather Goods	81149	Other Personal and Household Goods Repair and Maintenance
	Motion Picture and Video Tape Production	51211	Motion Picture and Video Production
7819	Services Allied to Motion Picture Production		
	Teleproduction and Post-Production Services	512191	Teleproduction and Other Post-Production Services
7812	Casting Bureaus	56131	Employment Placement Agencies (pt)
	Wardrobe Rental (Motion Pictures)	53222	Formal Wear and Costumes Rental (pt)
7819	Rental of Motion Picture Equipment	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing (pt)
	Talent Payment Services	541214	Payroll Services (pt)
7812	Film Directors and Related Motion Picture Production Services, Independent	71151	Independent Artists, Writers, and Performers (pt)
	Reproduction of Video	334612	Prerecorded Compact Disc (Except Software), Tape, and Record Manufacturing (pt)

7822	All Other Services	512199	Other Motion Picture and Video Industries (pt)
	Motion Picture and Video Tape Distribution		
	Prerecorded Video Tapes (Wholesaling of)	42199	Other Miscellaneous Durable Goods (pt)
	All Other	51212	Motion Picture and Video Distribution (pt)
7829	Services Allied to Motion Picture Distribution		
	Except Film Libraries	512199	Other Motion Picture and Video Industries (pt)
	Film Libraries	51212	Motion Picture and Video Distribution
7832	Motion Picture Theaters, Except Drive-Ins.	512131	Motion Picture Theaters, Except Drive-In
7833	Drive-In Motion Picture Theaters	512132	Drive-In Motion Picture Theaters
7841	Video Tape Rental	53223	Video Tapes and Disc Rental
7911@	Dance Studios, Schools, and Halls		
	Dance Studios and Halls	71399	All Other Amusement and Recreation Industries (pt)
	Dance Schools	61161	Fine Arts Schools (pt)
7922@	Theatrical Producers (Except Motion Picture) and Miscellaneous Theatrical Services		
	Casting Agencies	56131	Employment Placement Agencies (pt)
	Theater and Opera Companies	71111	Theater Companies and Dinner Theaters (pt)
	Theatrical Agents	71141	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures (pt)
	Ballet and Dance Companies	71112	Dance Companies
	Theater Operators	71131	Promoters of Performing Arts, Sports, and Similar Events with Facilities (pt)
	Theatrical Promoters	71132	Promoters of Performing Arts, Sports, and Similar Events without Facilities (pt)
	Producers of Radio Programs	51229	Other Sound Recording Industries (pt)
	Theatrical Equipment Rental	53249	Other Commercial and Industrial Machinery and Equipment Rental and Leasing
7929@	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups		

7933	Musical Groups and Artists, Orchestras	71113	Musical Groups and Artists
	Actors and Actresses	71151	Independent Artists, Writers, and Performers (pt)
	Except Musical Groups and Artists, Actors and Actresses	71119	Other Performing Arts Companies (pt)
	Bowling Centers	71395	Bowling Centers
7941@	Professional Sports Clubs and Promoters		
	Professional Sports Clubs	711211	Sports Teams and Clubs
	Sports Agents	71141	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures (pt)
	Sports Promoters	71132	Promoters of Arts, Sports and Similar Events without Facilities (pt)
7996	Stadium Operators	71131	Promoters of Arts, Sports, and Similar Events with Facilities (pt)
	Except Sports Clubs, Stadium Operators, Sports Promoters, and Agents	711219	Other Spectator Sports (pt)
	Racing, Including Track Operations		
	Racetrack Operators	711212	Race Tracks
7991@	Racing, except Track Operators	711219	Other Spectator Sports (pt)
	Physical Fitness Facilities	71394	Fitness and Recreational Sports Centers (pt)
	Public Golf Courses	71391	Golf Courses and Country Clubs (pt)
	Coin Operated Amusement Devices		
7993@	Amusement Arcades	71312	Amusement Arcades
	Gambling (Slot Machine) Operators	71329	Other Gambling Industries (pt)
	Except Amusement Arcades and Slot Machine Operators	71399	All Other Amusement and Recreation Industries
	Amusement Parks	71311	Amusement and Theme Parks
7997@	Membership Sports and Recreation Clubs		
	Membership Aviation Clubs When Combined With a Variety of Aircraft-based Services	48122	Nonscheduled Specialty Air Transportation (pt)
	Golf Clubs	71391	Golf Courses and Country Clubs (pt)

7999	Recreation Clubs with Facilities	71394	Fitness and Recreational Sports Centers (pt)
	Recreation Clubs Without Facilities	71399	All Other Amusement and Recreation Industries (pt)
8011@	Amusement and Recreation Services, NEC		
	Ticket Agencies	561599	All Other Travel Arrangement and Reservation Services (pt)
	Aerial Tramways, Scenic and Amusement	48799	Scenic and Sightseeing Transportation, Other
	Circus Companies	71119	Other Performing Arts Companies (pt)
	Professional Athletes	711219	Other Spectator Sports (pt)
	Skiing Facilities	71392	Skiing Facilities
	Nonmembership Recreation Facilities	71394	Fitness and Recreational Sports Centers (pt)
	Casinos, except Casino Hotels	71321	Casinos (except Casino Hotels)
	Lottery, Bingo, Bookie and Other Gaming Operations	71329	Other Gambling Industries (pt)
	Caverns and Miscellaneous Commercial Parks	71219	Nature Parks and Other Similar Institutions (pt)
	Sports Instruction	61162	Sports and Recreation Instruction
	Sports Equipment Rental	532292	Recreational Goods Rental
	Scenic Transport Operations, Land	48711	Scenic and Sightseeing Transportation, Land
	Charter Fishing	48721	Scenic and Sightseeing Transportation, Water
	Amusement and Recreation Services, NEC (except circuses, professional athletes, caverns, and other commercial parks, skiing facilities, casinos and other gambling operations, amusement and recreation facilities, sports instruction, sports equipment rental, and amusement or scenic transport operations)	71399	All Other Amusement and Recreation Industries (pt)
8011@	Offices and Clinics of Doctors of Medicine		
	Surgical and Emergency Centers	621493	Freestanding Ambulatory Surgical and Emergency Centers
	HMO Medical Centers	621491	HMO Medical Centers
	Offices of Physicians, Mental Health Specialists	621112	Offices of Physicians, Mental Health Specialists (pt)
	Offices of Physicians Except Mental Health	621111	Offices of Physicians, (except Mental Health Specialists) (pt)

8021	Offices and Clinics of Dentists	62121	Offices of Dentists
8031@	Offices and Clinics of Doctors of Osteopathy		
	Offices of Doctors of Osteopathy, Except Mental Health	621111	Offices of Physicians (except Mental Health Specialists) (pt)
	Offices of Doctors of Osteopathy, Mental Health Specialists	621112	Offices of Physicians, Mental Health Specialists (pt)
8041	Offices and Clinics of Chiropractors	62131	Offices of Chiropractors
8042	Offices and Clinics of Optometrists	62132	Offices of Optometrists
8043	Offices and Clinics of Podiatrists	621391	Offices of Podiatrists
8049	Offices and Clinics of Health Practitioners, NEC		
	Mental Health Practitioners, Except Physicians	62133	Offices of Mental Health Practitioners (except Physicians)
	Offices of Physical, Occupational, and Speech Therapists and Audiologists	62134	Offices of Physical, Occupational, and Speech Therapists and Audiologists
	Other Offices of Health Practitioners	621399	Offices of All Other Miscellaneous Health Practitioners
8051@	Skilled Nursing Care Facilities		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt)
	All Other Skilled Nursing Care Facilities	62311	Nursing Care Facilities (pt)
8052@	Intermediate Care Facilities		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt)
	Mental Retardation Facilities	62321	Residential Mental Retardation Facilities
	Other Intermediate Care Facilities	62311	Nursing Care Facilities (pt)
8059@	Nursing and Personal Care Facilities, NEC		
	Continuing Care Retirement Communities	623311	Continuing Care Retirement Communities (pt)
	Other Nursing and Personal Care Facilities	62311	Nursing Care Facilities (pt)
8062@	General Medical and Surgical Hospitals	62211	General Medical and Surgical Hospitals (pt)
8063@	Psychiatric Hospitals	62221	Psychiatric and Substance Abuse Hospitals (pt)
8069@	Specialty Hospitals, Except Psychiatric		

8071	Children's Hospitals	62211	General Medical and Surgical Hospitals (pt)
	Psychiatric and Substance Abuse Hospitals	62221	Psychiatric and Substance Abuse Hospitals (pt)
	Other Specialty Hospitals	62231	Specialty (except Psychiatric and Substance Abuse) Hospitals
8072	Medical Laboratories		
	Diagnostic Imaging Centers	621512	Diagnostic Imaging Centers
	Medical Laboratories, Except Diagnostic Imaging Centers	621511	Medical Laboratories
	Dental Laboratories	339116	Dental Laboratories
	Home Health Care Services	62161	Home Health Care Services
	Kidney Dialysis Centers	621492	Kidney Dialysis Centers
8093	Specialty Outpatient Facilities, NEC		
	Family Planning Centers	62141	Family Planning Centers (pt)
	Outpatient Mental Health Facilities	62142	Outpatient Mental Health and Substance Abuse Centers
	Other Specialty Outpatient Facilities	621498	All Other Outpatient Care Facilities
8099@	Health and Allied Services, NEC		
	Blood and Organ Banks	621991	Blood and Organ Banks
	Medical artists	54143	Commercial Art and Graphic Design Services (pt)
	Medical Photography	541922	Commercial Photography (pt)
	Childbirth Preparation Classes	62141	Family Planning Centers (pt)
	Other Health and Allied Services	621999	All Other Miscellaneous Ambulatory Health Care Services
	Legal Services	54111	Offices of Lawyers
	Elementary and Secondary Schools	61111	Elementary and Secondary Schools
	Colleges, Universities, and Professional Schools	61131	Colleges, Universities and Professional Schools
	Junior Colleges and Technical Institutes	61121	Junior Colleges
8231	Libraries	51412	Libraries and Archives
8111			
8211			
8221			
8222			

8243	Data Processing Schools			
	Computer Repair Training	611519	Other Technical and Trade Schools (pt)	
	Except Computer Repair Training	61142	Computer Training (pt)	
	Business and Secretarial Schools	61141	Business and Secretarial Schools	
8244	Vocational Schools, NEC			
8249@	Vocational Apprenticeship Training	611513	Apprenticeship Training	
	Truck Drivers Schools	611692	Automobile Driving Schools (pt.)	
	Aviation Schools	611512	Flight Training (pt)	
	Other Technical and Trade Schools	611519	Other Technical and Trade Schools	
	Schools and Educational Services, NEC			
	Flight Schools When Combined With a Variety of Aircraft-based Services	48122	Nonscheduled Specialty Air Transportation (pt)	
	Flying Instruction	611512	Flight Training (pt)	
	Automobile Driving Instruction	611692	Automobile Driving Schools (pt)	
	Curriculum Development, Educational	61171	Educational Support Services (pt)	
	Exam Preparation and Tutoring	611691	Exam Preparation and Tutoring	
8322	Art Drama and Music Schools	61161	Fine Arts Schools (pt)	
	Language Schools	61163	Language Schools	
	Professional and Management Development Training	61143	Professional and Management Development Training Schools(pt)	
	All Other Schools and Educational Services, NEC	611699	All Other Miscellaneous Schools and Instruction	
	Individual and Family Social Services			
	Child and Youth Services	62411	Child and Youth Services	
	Community Food Services	62421	Community Food Services	
	Licensed Mental Health Practitioners	62133	Offices of Mental Health Practitioners (except physicians) (pt)	
	Community Housing Services, Except Temporary Shelters	624229	Other Community Housing Services	

8331	Emergency and Other Relief Services	62423	Emergency and Other Relief Services
	Services for the Elderly and Persons with Disabilities	62412	Services for the Elderly and Persons with Disabilities
	Temporary Shelter	624221	Temporary Shelter
	Parole Offices and Probation Offices	92215	Parole Offices and Probation Offices
	Other Individual and Family Services	62419	Other Individual and Family Services
	Job Training and Vocational Rehabilitation Services	62431	Vocational Rehabilitation Services
	Child Day Care Services	62441	Child Day Care Services (pt)
	Residential Care		
	Homes for the Elderly	623312	Homes for the Elderly
	Mental Health and Substance Abuse Facilities	62322	Residential Mental Health and Substance Abuse Facilities
8399	Other Residential Care	62399	Other Residential Care Facilities
	Social Services, NEC		
	Voluntary Health Organizations	813212	Voluntary Health Organizations
	Grantmaking Foundations	813211	Grantmaking Foundations (pt)
	Grantmaking and Giving	813219	Other Grantmaking and Giving Services
	Human Rights Organizations	813311	Human Rights Organizations
	Environment, Conservation, and Wildlife Organizations	813312	Environment, Conservation and Wildlife Organizations (pt)
	All Other Social Advocacy Organizations	813319	Other Social Advocacy Organizations
	Museums and Art Galleries		
	Museums	71211	Museums
8422	Historical and Heritage Sites	71212	Historical Sites
	Arboreta and Botanical or Zoological Gardens		
	Botanical and Zoological Gardens	71213	Zoos and Botanical Gardens
	Nature Parks and Reserves	71219	Nature Parks and Other Similar Institutions (pt)

8611	Business Associations	81391	Business Associations (pt)
8621	Professional Membership Organizations	81392	Professional Organizations
8631	Labor Unions and Similar Labor Organizations	81393	Labor Unions and Similar Labor Organizations
8641	Civic, Social, and Fraternal Associations		
	Civic and Social Associations	81341	Civic and Social Organizations (pt)
	Homeowner and Condominium Associations	81399	Other Similar Organizations(pt)
	American Indian and Alaskan Native Tribal Governments	92115	American Indian and Alaska Native Tribal Governments
	Youth Development Organizations	62411	Child and Youth Services (pt)
8651	Political Organizations	81394	Political Organizations
8661	Religious Organizations	81311	Religious Organizations
8699@	Membership Organizations, NEC		
	Farm Granges	81341	Civic and Social Organizations (pt)
	Farm Business Organizations	81391	Business Associations (pt)
	Humane Societies	813312	Environment, Conservation, and Wildlife Organizations (pt)
	Motor Clubs	561599	All Other Travel Arrangement and Reservation Services (pt)
	Except Farm Granges, Farm Business Organizations and Environmental Conservation and Wildlife Organizations	81399	Other Similar Organizations
8711	Engineering Services	54133	Engineering Services
8712	Architectural Services	54131	Architectural Services
8713	Surveying Services		
	Geophysical Surveying Services	54136	Geophysical Surveying and Mapping Services (pt)
	Aerial Surveying When Combined With a Variety of Aircraft-based Services	48122	Nonscheduled Specialty Air Transportation (pt)
	Except Geophysical Surveying	54137	Surveying and Mapping (except Geophysical) Services (pt)
8721@	Accounting, Auditing, and Bookkeeping Services		

8731@	Auditing Accountants	541211	Offices of Certified Public Accountants
	Payroll Services	541214	Payroll Services
	Other Accounting Services	541219	Other Accounting Services
8732@	Commercial Physical and Biological Research		
	Physical and Engineering Sciences	54171	Research and Development in the Physical Sciences and Engineering Sciences (pt)
	Life Sciences	54172	Research and Development in the Life Sciences (pt)
8733@	Commercial Economic, Sociological, and Educational Research		
	Social Sciences and Humanities	54173	Research and Development in the Social Sciences and Humanities (pt)
	Market Research and Opinion Research	54191	Marketing Research and Public Opinion Polling
8734	Noncommercial Research Organizations		
	Physical and Engineering Services	54171	Research and Development in the Physical Sciences and Engineering Sciences (pt)
	Life Sciences	54172	Research and Development in the Life Sciences (pt)
8741@	Social Sciences and Humanities	54173	Research and Development in the Social Sciences and Humanities (pt)
	Testing Laboratories		
	Veterinary Testing Labs	54194	Veterinary Services (pt)
8742@	Except Veterinary Testing Labs	54138	Testing Laboratories
	Management Services		
	Except Construction Management Services	56111	Office Administrative Services
8742@	Construction Management Services	23	Included in Construction Sector By Type of Construction
	Management Consulting Services		
	Administrative and General Management Consulting	541611	Administrative Management and General Management Consulting Services
8742@	Human Resources and Personnel Management Consulting	541612	Human Resources and Executive Search Services (pt)
	Marketing Consulting	541613	Marketing Consulting Services
	Manufacturing Management, Physical Distribution, and Site Location Consulting	541614	Process, Physical, Distribution and Logistics Consulting

8743	Public Relations Services	54182	Public Relations Services
8744	Facilities Support Management Services	56121	Facilities Support Services
8748@	Business Consulting Services, NEC		
	Educational Test Development and Evaluation Services, Educational Testing, and Educational Consulting	61171	Educational Support Services (pt)
	Safety Consulting	541618	Other Management Consulting Services (pt)
	Agriculture Consulting, Economic Consultants, Radio Consultants, Traffic Consultants	54169	Other Scientific and Technical Consulting Services (pt)
8811	Private Households	81411	Private Households
8999@	Services, NEC		
	Authors, Artists, and Related Technical Services, Independent	71151	Independent Artists, Writers, and Performers (pt)
	Music Royalties, Sheet and Record	51221	Record Production
	Nuclear Consultants, Consulting Geologists, and Consulting Physicists	54169	Other Scientific and Technical Consulting Services (pt)
	Music Publishing	51223	Music Publishing
	Actorial Consulting	541612	Human Resources and Executive Search Consulting Services
	All Other Information Providers	514199	All Other Information Services
	Environmental Consultants	54162	Environmental Consulting Services (pt)
9111	Executive Offices	92111	Executive Offices
9121	Legislative Bodies	92112	Legislative Bodies
9131	Executive and Legislative Offices, Combined	92114	Executive and Legislative Offices, Combined
9199	General Government, NEC	92119	All Other General Government
9211	Courts	92211	Courts
9221	Police Protection	92212	Police Protection
9222	Legal Counsel and Prosecution	92213	Legal Counsel and Prosecution
9223	Correctional Institutions	92214	Correctional Institutions

9224	Fire Protection	92216	Fire Protection
9229	Public Order and Safety, NEC	92219	All Other Justice, Public Order, and Safety
9311	Public Finance, Taxation, and Monetary Policy	92113	Public Finance
9411	Administration of Educational Programs	92311	Administration of Education Programs
9431	Administration of Public Health Programs	92312	Administration of Public Health Programs
9441	Administration of Social, Human Resource and Income Maintenance Programs	92313	Administration of Social, Human Resource and Income Maintenance Programs
9451	Administration of Veteran's Affairs, Except Health Insurance	92314	Administration of Veteran's Affairs
9511	Air and Water Resource and Solid Waste Management	92411	Air and Water Resource and Solid Waste Management
9512	Land, Mineral, Wildlife, and Forest Conservation	92412	Land, Mineral, Wildlife, and Forest Conservation
9531	Administration of Housing Programs	92511	Administration of Housing Programs
9532	Administration of Urban Planning and Community and Rural Development	92512	Administration of Urban Planning and Community and Rural Development
9611	Administration of General Economic Programs	92611	Administration of General Economic Programs
9621	Regulations and Administration of Transportation Programs		
	Air Traffic Control	488111	Air Traffic Control (pt)
	Except Air Traffic Control	92612	Regulation and Administration of Transportation Programs
9631	Regulation and Administration of Communications, Electric, Gas, and Other Utilities	92613	Regulation and Administration of Communications, Electric, Gas, and Other Utilities
9641	Regulation of Agricultural Marketing and Commodity	92614	Regulation of Agricultural Marketing and Commodity
9651	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors	92615	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors
9661	Space Research and Technology	92711	Space Research and Technology
9711	National Security	92811	National Security
9721	International Affairs	92812	International Affairs
9999	Nonclassified Establishments	9999	Unclassified Establishments

The abbreviation "pt" means "part of"; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 industry. The abbreviation NEC is used for Not Elsewhere Classified.

**Sally Katzen,**

*Administrator, Office of Information and Regulatory Affairs.*

Head Start  
Program  
Final Rule

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Tuesday  
November 5, 1996

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**Part III**

**Department of  
Health and Human  
Services**

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**Administration for Children and Families**

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**45 CFR Part 1301 et al.  
Head Start Program; Final Rule**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

45 CFR Parts 1301, 1303, 1304, 1305, 1306, and 1308

RIN 0970-AB55

### Head Start Program

**AGENCY:** Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

**ACTION:** Final rule.

**SUMMARY:** The Administration for Children and Families is issuing this final rule to implement the statutory provisions for establishing Program Performance Standards for Early Head Start grantees and Head Start grantee and delegate agencies providing services to eligible children from birth to five years and their families as well as pregnant women, and for taking corrective actions when Early Head Start or Head Start agencies fail to meet such standards.

**EFFECTIVE DATES:** The effective date of these requirements is January 1, 1998. Nothing in this Part prohibits grantee or delegate agencies from voluntarily complying with these regulations prior to the effective date. The information requirements in §§ 1304.20, 22, 23, 40, 50, 51, 55 and 60 in the rule shall go into effect on the latter of the date on which they are approved by the Office of Management and Budget or January 1, 1998. A document will be published in the Federal Register announcing the approval date of the information requirements.

**FOR FURTHER INFORMATION CONTACT:** E. Dollie Wolverton, Head Start Bureau, 202/205-8418.

#### SUPPLEMENTARY INFORMATION:

##### I. Summary

The Head Start program is authorized under the Head Start Act (the Act), as amended (42 U.S.C. 9801 *et seq.*). Founded in 1965, the program currently offers comprehensive services, including high quality early childhood education, nutrition, health, and social services, along with a strong parent involvement focus, to low-income children nationwide. The overall goal of the program is to bring about a greater degree of social competence in preschool children from low-income families. Social competence refers to the child's everyday effectiveness in dealing with both his or her present

environment and later responsibilities in school and life. It takes into account the interrelatedness of cognitive, intellectual, and social development; physical and mental health; and nutritional needs.

The Program Performance Standards have played a central role in the Head Start program since the 1970s. They provide a standard definition of quality services for the 2,112 community-based organizations nationwide that administer Head Start as grantee or delegate agencies; serve as a training guide for staff and parents on the key elements of quality; articulate a vision of service delivery to young children and families that has served as a catalyst for program development and professional education and training in the preschool field; and provide the regulatory structure for the monitoring and enforcement of quality services in Head Start. Thus, their importance to the Head Start program and to preschool education generally goes far beyond the typical role of Federal regulations.

The authority for this final rule is sections 641A(a) and (d), 644(a) and (c), and 645A(h)(2) of the Head Start Act, as amended (42 U.S.C. 9801 *et seq.*). More specifically, the purpose of this final rule, the first wide-ranging revision of the Program Performance Standards in over 20 years, is to carry out the language in the 1994 amendments to the Head Start Act providing for an update of the Head Start Program Performance Standards.

Key provisions in the 1994 amendments require a review of the performance standards in order to bring them up to date, cover new topics, and include services to low-income pregnant women and families with infants and toddlers. In particular:

- The new section 641A provides that the Secretary must establish, by regulation, performance standards covering: (1) A range of services for children and families including health, education, parental involvement, nutritional, and social services as well as transition activities; (2) financial management and administration; and (3) facilities. Subparagraph (a)(3)(C) of the new section provides that the Secretary must review and revise, as necessary, the performance standards in effect under prior law.

- The amendments further provide that any revisions should not result in an elimination or reduction of requirements regarding the scope or types of health, education, parental involvement, nutritional, social, or other services to a level below that of the requirements in effect on November 2, 1978.

- Section 641A(d) prescribes procedures for corrective actions or termination to be taken with agencies which fail to meet the standards described in subsection (a).

- Section 645A(h)(2) requires that the Secretary develop program guidelines for Early Head Start, the newly authorized program for low-income pregnant women and families with infants and toddlers, and to publish performance standards for such programs.

##### II. The Head Start Program

The Head Start program served approximately 751,000 low-income children and families in fiscal year 1995 through a network of 2,112 grantee and delegate agencies. (Delegate agencies have approved written agreements with grantees to operate the program.) Grantee agencies are funded through a direct Federal-to-local relationship, and include a wide range of local agencies: Community Action Agencies, nonprofit agencies, local governments, Tribal governments, and school districts, among others. About 95 percent of the children in Head Start programs are from low-income families (below the Federal poverty line); about 13 percent of the children have disabilities; and about 90 percent of the children served are 3 or 4 years old. As described below, the 1994 Head Start amendments created a new initiative within Head Start to expand and focus on services to low-income pregnant women and families with infants and toddlers.

Key principles of Head Start since its inception in 1965, and reaffirmed most recently through a thorough review by the bipartisan Advisory Committee on Head Start Quality and Expansion, include the following:

- **Comprehensive Services.** To develop fully and to achieve social competence, children and their families need a comprehensive, interdisciplinary approach to services including education, health, nutrition, social services, and parent involvement. The range of services available must also be responsive and appropriate to each child and family's unique developmental, ethnic, cultural, and linguistic experience and heritage.

- **Parent Involvement and Family Focus.** The Head Start program is family centered and is designed to foster the parent's role as the principal influence on the child's development and as the child's primary educator, nurturer, and advocate. Local Head Start programs work in close partnerships with parents to develop and utilize parents' individual strengths in order to successfully meet personal and family

objectives. In addition, parents are encouraged to become involved in all aspects of Head Start, including direct involvement in policy and program decisions that respond to their interests and needs.

- *Community Partnerships and Community-Based Services.* Head Start programs are intended to be community-based, with different specific models of service provision flowing out of the differing needs of differing communities. In addition, the most effective Head Start programs have always been, in the words of the Advisory Committee on Head Start Quality and Expansion, "central community institutions" for low-income families, building linkages and partnerships with other service providers and leaders in the community.

### III. Legislative and Programmatic History

In May 1994, the President signed into law the Head Start Reauthorization Act of 1994. This legislation, enacted with bipartisan sponsorship and support, amended the Head Start Act to extend the program authorization period through fiscal year 1998.

It also made a number of changes to ensure that all children and families enrolled in Head Start are offered high quality services that are responsive to their needs. The legislation built on the vision and recommendations contained in *Creating A 21st Century Head Start*, the report of the Advisory Committee on Head Start Quality and Expansion, which was issued in December 1993.

The Secretary formed the Advisory Committee in June 1993 to look at Head Start quality and program expansion issues. The Committee worked for six months before issuing its report. The report included numerous recommendations centered around:

- Striving for excellence in staffing, management, oversight, facilities, and research;
- Expanding to better meet the needs of children and families; and
- Forging new partnerships with communities, schools, the private sector and other national initiatives.

In its report, the Advisory Committee reaffirmed the role and value of the existing Head Start Program Performance Standards. However, it also recommended that the standards be reviewed and revised to reflect the changing nature of the Head Start population, the evolution of best practices, program experience with the existing standards, and the pending program expansion. Reviews in several specific areas were recommended,

including: Business practices and financial management; staff levels and qualifications; developmentally appropriate curricula and emergent literacy; transition services; mental health; nutritional requirements; family services; parental roles; services for the "birth-to-three" population; transportation; and program coordination. It also recommended the consideration of: (1) Standards and systems in effect in other early childhood programs; (2) work in other fields to establish outcome-based accountability systems; and (3) the guiding principles of the Administration's National Performance Review (i.e., increased responsiveness to clients and the minimization of regulations and paperwork). As principles for the review effort, it called for the promotion of quality, responsiveness to community needs, and the strengthening and streamlining of the standards. Finally, it advised consideration of the special needs and circumstances of programs serving American Indians and migrant and seasonal farm workers.

In making its general recommendations, the Advisory Committee noted the dramatic changes that had occurred in the world of Head Start families since 1965:

- The needs of poor children and families are more complicated and urgent. Violence, substance abuse, homelessness, lack of education, and unemployment are helping to make them so. At the same time, more of the Head Start service population is coming from single-parent families, increasing numbers of parents are working, and family literacy is increasingly being recognized as an important service need.

- Over the past three decades, the landscape of community services has changed dramatically. There are new roles and enhanced capacities for serving young children and their families. Today, we also have new knowledge about the attributes of services and supports that are effective in changing long-term outcomes for young children, new knowledge about the importance of the first three years of life, and new knowledge and appreciation for the continuum of developmental and comprehensive services that are often needed before school and into the early years to help children succeed in school.

While the Advisory Committee found that Head Start has succeeded in improving the lives of young children and their families, it cited some areas wherein further improvements were possible. These include: (1) Consistency

in the quality of programs; (2) responsiveness to the diverse needs of Head Start families; (3) addressing the large unmet need for Head Start services; and (4) coordination of Head Start with other early childhood programs and elementary schools.

The 1994 Head Start Amendments reflect similar concerns on the part of the Congress. They include a number of provisions designed to improve program quality, including new requirements with respect to quality standards and program monitoring, technical assistance and training, staff qualifications and development, and an allocation for quality improvement activities. They also include a number of provisions to expand the nature and scope of services and to make programs more responsive to the needs of their service populations. For example, they add new requirements with respect to family literacy services and parental involvement, provide for an initiative for low-income pregnant women and families with infants and toddlers (Early Head Start), add requirements to facilitate the successful transition of Head Start children to elementary school, and mandate a study of the adequacy of full-day/full-year programs.

The amendments further provide that, in revising the current Program Performance Standards and in developing new ones, the Secretary must consult with experts in the fields of child development, early childhood education, family services (including "linguistically and culturally appropriate services" to children and families for whom English is not the primary language), and administration and financial management. They also require consultation with individuals with experience operating Head Start programs.

Additionally, the amendments require that the Secretary take several factors into consideration in developing the Program Performance Standards. These include: Past experience with the existing standards; changes over time in the Head Start service population; developments in best practices with respect to child development, children with disabilities, family services, program administration, and financial management; projected needs related to Head Start expansions; existing and potential standards and guidelines related to the promotion of child health; changes in the population of eligible children (including changes in family structures and languages spoken in the home); and local policies and activities designed to ensure the successful transition of Head Start children to elementary school.

The Advisory Committee on Services for Families with Infants and Toddlers was formed by the Secretary of Health and Human Services in July 1994 to advise and inform the Department on the development of program approaches for the new Head Start initiative serving low-income pregnant women and families with infants and toddlers (later named "Early Head Start"). The Advisory Committee drew upon the experiences of a number of different programs (such as the Comprehensive Child Development Program, Parent and Child Centers, and Head Start Migrant Programs), the insights provided by participants in over 30 focus groups, three decades of research on child and family development, and extensive consultations with experts and practitioners in the field.

In September 1994, the Advisory Committee on Services for Families with Infants and Toddlers issued a formal statement setting forth both its vision and goals and its recommendations for program principles and cornerstones. It called for the development of a range of service strategies that would support the growth of the young child within the family and the growth of the family within the community. Thus, it envisioned program approaches that were family-centered and community-based. Its program principles included: (1) A commitment to excellence in the quality of the services provided as well as in program management; (2) the prevention and early detection of and early intervention with problems; (3) the early, proactive, and ongoing promotion of a child's healthy development; (4) the promotion of positive, continuous relationships that nurture the child, parents, family, and caregiving staff; (5) the promotion of parent involvement; (6) the inclusion of children with disabilities and respect for individual children and adults; (7) respect for home languages and cultures; (8) responsiveness to the unique strengths and abilities of the children, families, and communities served; (9) ensuring smooth transitions; and (10) collaboration and the active pursuit of partnerships with kindred programs.

On April 22, 1996, the Department of Education published a notice of interpretation in the Federal Register in which the Assistant Secretary for Elementary and Secondary Education interpreted section 1112(c)(1)(H) of Title I of the Elementary and Secondary Education Act of 1965 to require, beginning in fiscal year 1997, that local educational agencies choosing to use Title I, Part A funds to provide early childhood development services to low-

income preschool children comply with the Head Start performance standards in 45 CFR 1304.21, Education and Early Childhood Development. (Title I preschool programs using the Even Start model or Even Start programs which are expanded through the use of Title I funds are exempt from this requirement.) Elsewhere in this issue of the Federal Register, the Assistant Secretary has published a notice of interpretation regarding compliance with this provision for the school year 1997-1998. For further information on the applicability of the Head Start Program Performance Standards to Title I programs, please contact the Director of Compensatory Education Programs at the Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue SW., Portals Building, Room 4400, Washington, DC 20202-6132. Telephone (202) 260-0826. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

#### IV. Approach

A fundamental challenge that we addressed in developing this regulation was to find the right balance between three important goals: (1) Addressing the critically important new areas for regulation identified in the statute; (2) maintaining quality and avoiding any reduction in the level of services prescribed in the standards, as mandated by statute; and (3) attempting to streamline the standards, avoid regulatory burden, and encourage flexibility and innovation.

Our approach to identifying the right balance included wide-ranging consultation with many different individuals and groups, consistent with the statutory requirements at section 641(A)(a)(3) regarding the consultations the Secretary had to undertake and the factors which the Secretary must consider in developing the revised Program Performance Standards. Following both the statute and the Administration's regulatory revision principles, we offered extensive opportunities for a wide range of interested parties to review and discuss the current Program Performance Standards.

Over 70 focus groups were convened in 1994-1995 involving approximately 2,000 individuals including subject experts, parents, educators, technical assistance providers, local sponsors of Head Start programs, Federal staff and persons with extensive program

monitoring experience. In addition, representatives from a wide array of national organizations and agencies with particular interest in child and family issues were consulted, as were staff in other Federal agencies responsible for administering related programs and serving similar populations.

Based on this broad consultation, as well as on the work of the national Advisory Committees on Head Start Quality and Expansion and on Services for Families with Infants and Toddlers, we developed the following key elements of our approach to this regulation: (1) The current Program Performance Standards should be reorganized to reduce fragmentation and duplication, encourage holistic approaches, and emphasize partnerships with families and communities; (2) a single set of integrated standards for services from birth to age five should be developed; (3) the regulation should focus on requirements that are key to maintaining quality services and meeting new and emerging needs; and (4) the least burdensome approach to maintaining quality and meeting emerging challenges should be sought.

The Notice of Proposed Rulemaking (NPRM) was published in the Federal Register on April 22, 1996 (61 FR 17754-17792) with a 60-day public comment period. Over 1,100 comment letters were received, containing nearly 15,000 comments. We believe that the large number of comments received reflects the extensive consultation process which was used in developing the NPRM. Many of the comments were from current Head Start grantee and delegate agencies. Other commenters included: National, Regional and State Head Start associations; State agencies; and representatives of major professional associations and organizations concerned with infants, toddlers and preschoolers. In analyzing the comments received and in developing the final rule, the comments were grouped according to the specific standard being addressed, the broad issue areas raised, the major cross-cutting themes presented, and the type of comment.

We drew upon a number of principles in order to balance the many different views expressed in the comments and to help clarify and guide our decision-making for the final rule. Key among these were:

- *The purposes of the Program Performance Standards as established by the 1994 reauthorization of the Head Start Act and emphasized by the Advisory Committees on Head Start*

*Quality and Expansion and on Services for Families with Infants and Toddlers.* These purposes include updating the standards to respond to the emerging needs and circumstances of families and communities as well as to new research knowledge; ensuring program quality (and, as required by statute, ensuring that the level and quality of services do not fall below the current standards); and providing an entirely new set of standards to govern programs serving low-income pregnant women and families with infants and toddlers.

- *The appropriate role of Federal regulations as opposed to guidance on best practices or technical assistance and training.* Many commenters requested additional detail, specificity and prescriptiveness in the standards. While we balanced each request for more detail on an individual basis, in general we chose not to make the standards themselves more specific in the belief that overly prescriptive Federal regulations should be avoided in order to provide flexibility to grantee and delegate agencies to enable them to make programmatic decisions based on the needs of the children and families they serve and of the communities in which they are located. For example, many commenters questioned the deletion of the requirement in the current standards related to the use of child-sized utensils; and others sought more specificity about the curriculum that is required and how it should be implemented. With respect to the first example, while we would expect programs to use age-appropriate utensils, we did not include the requirement in the final rule because we felt that it would be overly prescriptive. Relative to the second example, we added a definition of "curriculum" in the final rule, but did not include more specifics in the standards themselves. Following the publication of the final rule, we do, however, plan to follow up with training and technical assistance as well as Guidance in order to share best practices and to give agencies the tools they need to make effective decisions at the local level.

- *The need to be sensitive and responsive to the major views expressed, while giving all perspectives full consideration, even when these perspectives were sharply different or even contradictory.* In a number of cases, we were able to identify new and better policy options as a result of contradictory comments provided on the NPRM. For example, as a result of the comments on both sides of the issue of a 90- versus a 45-day period for the conduct of health and developmental assessments, we developed an option

that combines the benefits of both approaches.

In general, the comments we received confirmed the broad principles and structure of the NPRM, and were supportive of both the proposed standards and the consultation process we employed in their development. Commenters generally found the standards to be "user-friendly," comprehensive and well-integrated, and expressed support for their tone and approach. They praised the standards' clarity, flexibility, cultural sensitivity, and responsiveness to the many issues expressed in the public consultation process. In addition to the integration of standards serving children from birth to age 5, particular aspects of the standards which the comments supported included the reorganization of the standards into three major new areas (Early Childhood Development and Health Services, Family and Community Partnerships, and Program Design and Management) to make them simpler and less fragmented than the existing standards; the increased emphasis on quality services and best practices; the strengthened emphasis on family and community partnerships; and the new sections on program design and management.

In addition to providing support for the proposed rule, other major categories of comments included the following:

- A number of commenters identified proposed standards that they believed imposed costs or other burdens or that were too rigid to meet local circumstances. Except in a very few cases, where we believed that the proposed standard was critical to ensuring quality, health or safety or meeting a statutory mandate, we sought to respond to these concerns by making the standards more flexible; by clarifying the intent more clearly through wording changes; or by proposing guidance or technical assistance to reduce the potential burden on grantees. For example, many commenters were concerned that the proposed standard requiring that volunteers be screened for tuberculosis before coming into contact with children would be costly, create a barrier to parent volunteers, and make no sense in communities with low incidences of tuberculosis. We have modified the standard to require screening only for regular volunteers and only when required by State, Tribal or local law. In the absence of such laws, Centers also may screen based on the recommendations of the Health Services Advisory Committee.

- Many commenters requested clarification of terms used in the standards which they found confusing. We have taken many of these comments into account and, in several cases, the requests for clarification were extremely helpful in identifying policy improvements that could be made. For example, many commenters pointed out that the proposed standards on compliance were confusing because they mixed two terms (non-compliance and deficiencies) and two different timeframes. In response, we revised these standards to focus solely on deficiencies. We believe that this change will enhance the ability of grantee and Federal staff to focus more analytically and systemically on areas affecting quality and results for children and families.

- Finally, many commenters provided suggestions regarding the implementation of the standards, including examples from their own practice. While most of these comments are not reflected in the language of the final rule, they were extremely helpful and will be used in guiding the major training, technical assistance and guidance efforts that we plan to undertake in the future.

#### V. Cross-Cutting Themes

The sections of the NPRM which received the most comments were Human Resources Management (45 CFR 1304.52), Program Governance (45 CFR 1304.50), Family Partnerships (45 CFR 1304.40), and Child Health and Developmental Assessment (45 CFR 1304.20). In addition, commenters raised important issues that cut across sections of the NPRM, such as the new structure of the Program Performance Standards; the provision of high quality services to infants and toddlers, including the need to ensure a sufficient emphasis on their needs in an integrated regulation; linkages between the proposed rule and the Head Start Program Performance Standards on Services to Children with Disabilities (45 CFR part 1308); and the need to place greater emphasis on the provision of services within the home-based program option.

#### Structure of the Standards

As noted above, a large number of commenters supported the reorganization of the standards into three major new areas: Early Childhood Development and Health Services, Family and Community Partnerships, and Program Design and Management. Commenters stated that the new approach is supportive of quality and integrated services and is more "user-

friendly.” We concur with these comments, and have retained the proposed structure.

Several commenters, however, raised concerns about how the new approach would be implemented, as the organizational structures and staffing patterns of many local programs are based on the program component structure of the current Program Performance Standards. There was also concern that the integration of program components proposed under the new structure would cause confusion for staff. We intend to respond to these comments by providing training, technical assistance and guidance following the publication of the final rule. We appreciate the suggestions made by some commenters regarding particular approaches and best practices that might be implemented to promote collaboration, and intend to draw on these suggestions in preparing the Guidance and the technical assistance materials.

#### *Services for Infants and Toddlers*

Overall, strong support emerged for the integration of standards for services to children from birth to age 5. The commenters generally felt that one set of standards for infants, toddlers and preschoolers would improve the quality and the continuity of services to children and families. We agree with these comments, and have retained the integrated structure of the standards.

At the same time, a number of concerns and questions were raised. Some commenters were unsure which standards apply to infants and toddlers and which apply to preschoolers and, in a few instances, requested that separate standards be established for each age group. In response, we reviewed each standard and have changed the wording, where appropriate, to reflect the standard’s applicability to services for infants and toddlers, for preschoolers or for both groups.

Other commenters expressed the concern that, by integrating the standards for infants and toddlers with those for preschoolers, critical and distinct issues related to infant and toddler care would be lost, resulting in a dilution in the quality of services provided to those children. While we continue to believe, along with the majority of the commenters, that the integrated approach will support quality services for children from birth to age 5 and will also be easier for grantee and delegate agencies to use, we have responded to this concern in a number of ways. First, we reviewed individual standards to ensure that they reflect the particular needs of infants and toddlers.

Standards which pertain specifically to the care of infants and toddlers and which are designed to ensure that their particular and special needs are addressed can now be found throughout the final rule in the areas of education, health and safety, nutrition, staff qualifications, child:staff ratios and group sizes, and facilities, materials, and equipment. Second, we intend to develop and issue Guidance materials and to provide extensive training and technical assistance specific to infants and toddlers following the publication of the final rule.

Several commenters requested further information and guidance on how to implement the new standards related to Early Head Start, particularly those pertaining to infants. We intend to provide such supportive technical information in the Guidance pertaining to the standards and in supplemental descriptive materials about Early Head Start. Commenters also questioned why the nine principles identified by the Advisory Committee on Services for Families with Infants and Toddlers as being characteristic of successful programs for families with very young children as well as the four cornerstones of such programs were not included in the NPRM. Although not explicitly referenced, these principles and cornerstones are reflected both in the organizational structure of the revised standards and in specific standards themselves. These principles and cornerstones, however, will be more specifically addressed in the Guidance and related materials to be developed in the future.

Many commenters proposed that the title “Head Start” be used to describe services to all children from birth to age 5, and that the title “Early Head Start” be deleted. There are, however, reasons for retaining the separate program designations. The two programs are described in separate sections of the Head Start Act, and there also are operational distinctions. For one, Early Head Start is a demonstration program, with specific project periods, whereas funding for Head Start is generally continued from year to year provided that grantees implement their programs in conformance with the Program Performance Standards and with other requirements. A recommendation also was made that Early Head Start be renamed “Head Start for Infants and Toddlers”; we believe, however, that the title “Early Head Start” more accurately reflects the program’s emphasis, since it serves low-income pregnant women as well as infants and toddlers.

#### *Services for Children With Disabilities*

Many of the comments about the NPRM raised issues related to the Head Start Program Performance Standards on Services to Children With Disabilities (45 CFR part 1308). The recommendations included: (1) Providing additional cross-references to 45 CFR part 1308; (2) developing specific standards on services to infants and toddlers with disabilities; (3) including a statement in 45 CFR part 1304 about the need to serve children with disabilities; and (4) integrating the standards in 45 CFR part 1308 into the final rule.

We share the concerns of these commenters that the provision of quality services to children with disabilities is a critical part of Early Head Start and Head Start programs, and that linking the two sets of standards as clearly as possible would not only contribute to quality services, but also would be easier for grantees to use. However, we chose not to integrate 45 CFR part 1304 and 45 CFR part 1308 at this time for several reasons. First, the disability standards at 45 CFR part 1308 were published in 1993, and our experience with them is still relatively new. Secondly, we wanted to ensure that sufficient attention would be focused on the new standards for infants, toddlers and pregnant women as well as on the revised standards for preschool children, which have not been revised since the 1970s. Should the need to integrate the two sets of standards become apparent in the future, we would consider amendments to the rules to do so.

We have responded to the concerns raised in several ways which we believe will make the linkages between the two sets of standards clearer and will further elevate attention to disabilities issues in the final rule. First, we have made additional cross-references to the disabilities standards in the final rule in order to improve cohesiveness between the two regulations. We also have incorporated a number of specific changes in the final rule designed to improve services for children with disabilities, drawing upon suggestions provided by commenters. For example, we have restored the 45-day timeframe for the conduct of developmental, behavioral and sensory screenings of children (which had been increased to 90 days in the NPRM) to ensure that children who require further evaluation or treatment and services are identified in time to be linked into the appropriate service systems.

Additionally, we intend to issue both 45 CFR part 1304 and 45 CFR part 1308

in the same document along with other applicable Head Start regulations. We believe that having the regulations located together, along with cross-referencing, will assist readers in better comprehending the full body of standards. We also will provide Guidance and fund training and technical assistance efforts to support our commitment to effectively serving children with disabilities from birth to age 5.

#### *Home-Based Services*

A number of commenters expressed the concern that the proposed standards, as written, focus primarily on center-based programs and do not adequately address other program options, particularly the home-based program option. To address these concerns, we reviewed each standard and changed the wording, where appropriate, to clarify the standard's applicability to center-based, home-based, or other program options. We also have added standards that apply specifically to the home-based option in the areas of education and early childhood development, family partnerships, and human resources management.

In addition to the changes in the NPRM based upon comments received, as discussed below, we also have made a number of technical edits to the NPRM in this final rule which did not alter policy and, therefore, they are not discussed.

#### VI. Section-by-Section Discussion of the Final Rule

##### *SUBPART A—General*

##### Section 1304.2 Effective Date

The majority of commenters found the proposed timeframes in which Early Head Start and Head Start grantee and delegate agencies must come into compliance with these standards confusing. Others said the deadlines were too short, arguing that they were inconsistent with the quality improvements being required; would not allow for the implementation of new requirements in a meaningful way; and would preclude the meaningful inclusion of parents, staff and community members in the decision-making processes. Commenters proposed several approaches and timeframes up to 24 months for planning and implementation. Other commenters, while supportive of the timeframes proposed, suggested that waivers be available to grantees which are unable to meet all of the requirements within these time periods.

We have changed the effective date in the final rule to January 1, 1998. We established one specific date in order to eliminate the confusion that was generated by the timeframes proposed in the NPRM. In addition, we extended the effective date in recognition of the time that will be needed by grantee and delegate agencies to comply with the new requirements established in the final rule, and by the Federal government to provide the Guidance materials and training and technical assistance necessary to assist agencies in these efforts.

##### Section 1304.3 Definitions

A number of commenters were supportive of the set of definitions provided, describing them as being specific, helpful and clear. Others requested that additional definitions be included in the final rule. In some cases, we decided that the concerns raised about definitions could best be addressed through clarifications provided in other sections of the Preamble or in the standards themselves, rather than in this section or through additional definitions. Requests for further clarification of the terms "out-of-compliance" and "deficiency," for example, are discussed in the section of the Preamble relating to 45 CFR 1304.60; and requests for a definition of "screening" are addressed through the standards in 45 CFR 1304.20. Other additions, as well as deletions, to the definitions provided in 45 CFR 1304.3 of the NPRM based upon the comments received are discussed below.

Several commenters stated that, since the term "center" is used so often in the standards, a definition should be provided for clarity. However, since "center-based program option" is defined in 45 CFR 1306.3(a), we have not added this definition.

The definition of "collaboration and collaborative relationships" with other agencies (45 CFR 1304.3(a)(3)) remains the same as that provided in the NPRM. Grantee and delegate agencies are cautioned, however, that such collaborative relationships must be undertaken in a manner which is consistent with the cost principles established in OMB Circulars A-122 ("Cost Principles for Nonprofit Organizations") and A-87 ("Cost Principles for State and Local Governments").

Numerous commenters suggested that a definition of "curriculum" was needed in order to clarify the requirement in 45 CFR 1304.21(c)(1) that grantee and delegate agencies implement a curriculum. Others were

concerned that the absence of a definition would result in too much room for misunderstanding and too much flexibility in curriculum development and selection. Other commenters raised more specific questions, such as: does the term refer to an individual or to a group curriculum? In response to such concerns, a definition of "curriculum" has been added in the final rule. The Guidance materials, to be developed at a later date, will discuss the implementation of a curriculum in both center-based and home-based settings.

Several commenters found the definition of "home visitor" in the NPRM confusing because it mixed center- and home-based program options and also applied the term to the infant and toddler caregiver in Early Head Start and to the classroom teacher in Head Start. We have revised the definition in the final rule so that it refers only to "the staff member in the home-based option \* \* \*" and have made other clarifying edits.

The definitions of "infant," "toddler" and "preschooler" proposed in the NPRM raised a number of concerns, particularly related to the issue of continuity of care. One commenter, for example, questioned whether the definition of "toddler" would mean that Early Head Start services must end the day that a child reaches his or her third birthday, resulting in the child being abruptly terminated during the program year. We concur with the concern that defining children by specific age groupings could restrict the ability of programs to make sound decisions about appropriate placements for children, particularly in Early Head Start. Therefore, we have deleted these definitions in the final rule.

Additionally, the definition of Early Head Start has been clarified to emphasize that the program serves low-income pregnant women and families with children from birth to age three.

A few commenters questioned the use of "staff caregiver" for those staff having direct responsibility for the care and development of infants and toddlers and "teacher" for those staff having direct responsibility for the care and development of preschool children in center-based settings. In response to these comments, we have deleted the term "staff caregiver" in the final rule and have revised the definition of "teacher" to "an adult who has direct responsibility for the care and development of children from birth to five years of age \* \* \*." While we recognize that there is no consensus in the field on this issue, we believe that it is important to use one, consistent

term in order to create an integrated set of standards for services to children from birth to age five. By using common terminology, we are conveying the importance of continuity of care for children as well as helping to build professionalism in the field of infant and toddler care.

The term "volunteer" generated many comments, particularly in relation to the requirement in 45 CFR 1304.52(i)(2) in the NPRM that volunteers must be screened for tuberculosis. Many commenters stated that this requirement should apply only to volunteers who participate on an ongoing basis. We revised the definition in 45 CFR 1304.3(a)(20) in the final rule to clarify that a volunteer " \* \* \* assists in implementing ongoing program activities on a regular basis \* \* \* ". Other commenters questioned why volunteers had to be 16 years of age or older, citing the fact that many students assist with Head Start program activities. We deleted the age reference in the definition of "volunteer" in response to these comments.

#### *Subpart B—Early Childhood Development and Health Services*

##### **Section 1304.20 Child Health and Developmental Services**

We received hundreds of comments related to child health and developmental assessment (45 CFR 1304.20), demonstrating the importance of this area to the Head Start community. While many of the comments were supportive of the requirements in the NPRM, it was clear from the numerous questions and requests for further clarification that the intent of these standards was not understood by many readers. In response, we have taken another look at the framework and structure for providing health services to children and families, beginning with changing the word "assessment" in the title of this section to "services."

Our primary goal in establishing standards for health services is to link children and families to a system of health care and to ensure that families have an ongoing source of continuous, accessible medical care. A new standard has been added at 45 CFR 1304.20(a)(1)(i) which formally expresses this goal.

To support this goal, major changes were made to the other standards in this section. These include: (1) Defining the roles of Early Head Start and Head Start staff and other health professionals; (2) clarifying the set of required clinical, laboratory, developmental, behavioral and sensory screenings and tests; (3)

establishing timeframes for the completion of the screenings and tests; and (4) strengthening the requirements for services to children with disabilities. The specific changes related to each of these four areas are described below.

In specifying the roles and responsibilities of staff and other health professionals in the provision of health services, we refer again to the primary goal of establishing a long-term medical home for children and families. As revised, 45 CFR 1304.20(a)(1)(ii) indicates clearly that local health care professionals have primary responsibility for making decisions about the child's health status and the need for further services. This provides an opportunity for a relationship to develop between provider and patient that, hopefully, will continue after the family has left Early Head Start or Head Start. Early Head Start and Head Start staff will continue to have an important role in determining the health status of children by working with parents to ensure that health care professionals conduct an initial determination of the status of the child's health and provide any further diagnostic testing, examinations and treatment as needed. In order to assure that staff have the information needed to ensure that proper and timely health services are being provided, we have added another standard at 45 CFR 1304.20(a)(1)(ii)(C), which requires grantee and delegate agencies to establish procedures to track the provision of health care services.

During the process of describing the roles and responsibilities for the provision of health services, we looked at both the short-term and long-term needs of children and families. Currently, Early Head Start and Head Start staff have a pivotal role in providing and organizing health care services. We acknowledge that Early Head Start and Head Start staff, especially those in communities with limited health care resources, assume the role of the provider or organizer of health care services to meet the immediate health care needs of children. However, staff must keep in mind the long-term goal of ensuring that each child and family has a "medical home" with which they can remain involved when the child is no longer enrolled in Early Head Start or Head Start.

In 45 CFR 1304.20(b), (45 CFR 1304.20(d) in the NPRM), the division of responsibilities with regard to the conduct of developmental, behavioral, and sensory screenings of the child's motor, language, social, cognitive, perceptual, and emotional skills is further delineated. (The standard at 45

CFR 1308.6(b)(3) contains additional information on identifying children with disabilities.) Recognizing that it is the staff and parents who have the opportunity to observe children on an ongoing basis and in a variety of settings, Early Head Start and Head Start staff, in collaboration with the parents, are responsible for performing or obtaining the majority of these screenings. Staff must, however, work with mental health, child development, or other health professionals in the administration of these tests as needed, in the interpretation of the results, and in obtaining assistance in planning further screening and treatment.

In keeping with our new framework of establishing an ongoing system of health care for children and families, we also moved 45 CFR 1304.22(a) (as printed in the NPRM), which requires the provision of extended health follow-up and treatment, to 45 CFR 1304.20(c).

The second major change to this section was the deletion of the standard listing the specific medical and developmental tests that must be completed (45 CFR 1304.20(c)(1) in the NPRM). Instead, 45 CFR 1304.20(a)(1)(ii) in the final rule states that the requirements for well child care must incorporate the latest immunization recommendations of the Centers for Disease Control and Prevention and the requirements for a schedule of well child care employed by the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program for the State in which the grantee operates, as well as any additional recommendations from the local Health Services Advisory Committee based on prevalent community health problems.

This change satisfies several concerns. First, some commenters raised the concern that the schedule from the Centers for Disease Control and Prevention evolves over time and that the EPSDT program varies from State to State. Because, under the EPSDT, each State can determine for itself the list of appropriate tests, immunizations, and schedules of well child care, commenters stated that they had experienced problems in the past in getting local providers to complete Head Start's list of screenings, assessments, immunizations, and other well child procedures when State requirements did not include one or more of these procedures and Medicaid would not pay for the service. This change provides local health professionals with the ability to respond to the needs of their communities.

Other commenters pointed out that, by following State requirements, grantee and delegate agencies across the country

would be using somewhat different criteria for the provision of health services, and they questioned how on-site program reviewers would respond to this situation. It is our intent that the reviewers will be provided with the information needed to monitor each grantee and delegate agency according to its State's standards.

A second concern addressed by eliminating the specific list of screenings and tests relates to the fact that medical standards change over time. By linking health care services to the Centers for Disease Control and Prevention and EPSDT schedules, the services received by children will generally not become outdated, as both of these schedules are updated regularly to reflect current knowledge and best practice. Third, reliance on the Centers for Disease Control and Prevention and EPSDT schedules will eliminate duplication of effort between Early Head Start and Head Start staff and other health professionals and, finally, this change supports our goal of limiting the prescriptiveness of Federal regulations.

The third major change in this section relates to the proposed requirement that the health care screenings and tests be completed within 90 calendar days from the child's enrollment in Early Head Start or Head Start. This standard (45 CFR 1304.20(a)(1) in the NPRM) received more comments than any other in this section. Commenters either supported the new timeframe, wanted it returned to 45 days as required by 45 CFR part 1308, or proposed a compromise of 60 days. Of the commenters in support of the 90-day requirement, many were from rural areas of the country and pointed out that the resources (particularly dental services) do not exist to serve all children within the 45-day limit. On the other hand, critics of the 90-day requirement were concerned about the importance of identifying health conditions as early as possible for infants and toddlers and for children with (or suspected of having) disabilities. Those in favor of retaining the 45-day limit in Part 1308, felt that, while challenging, it was reasonable, and that many grantee and delegate agencies already had systems in place to meet that requirement.

Due to the wide variation in the availability of health care from community to community, and because our general approach to rule-making highlights flexibility for local programs, we have retained the 90-day requirement for the determination of the child's health status and needs in the final rule. In response to the comments received, and in recognition of the

difficulties in delivering health care services to low-income families, we have clarified the tasks that must be completed within the 90 calendar day timeframe. In retaining this longer timeframe, we do not wish to suggest that grantee and delegate agencies should take the full 90 days to determine each child's status. Rather, we encourage all agencies to complete the process described in 45 CFR 1304.20(a) as early as possible after a child's entry into the program. We recognize the critical nature of time in determining the health status of infants, and we particularly recommend an early start and completion of the process for this age group.

While the initial determination of children's health status, which depends in part on available resources in the community, may take up to 90 days, the process of developmental, sensory, and behavioral screenings must take place within 45 calendar days (as discussed in the final rule in 45 CFR 1304.20(b)). As indicated above, these screenings will be performed, in large part, by Early Head Start and Head Start staff in collaboration with each child's parents. As the conduct of these screenings do not depend as much on the availability of local health care resources, we believe that the 45-day timeframe is appropriate. Further, the 45-day limit supports the early identification and provision of services for children with disabilities as described in 45 CFR part 1308, and supports coordination with other Federal programs serving children with disabilities (i.e., the Child Count submitted to the U.S. Department of Education by each State Education Agency).

A related standard, 45 CFR 1304.20(a)(2) in the final rule, requires that grantee and delegate agencies operating programs for 90 days or less must complete health determinations and follow-up plans no later than 30 calendar days after the child's entry into the program. We received both criticism and support for this requirement. The supporters pointed out that this standard would ensure that children receive needed health services, while the critics stated that the 30-day limit would be difficult to meet. We have not changed the timeframe in this standard because we believe that it is critically important that children enrolled in programs of shorter duration, who are less likely to have a stable "medical home" due to the transient nature of their parents' employment, have their health needs identified as soon as possible.

We received a few comments on the information collection requirements

concerning child health and developmental assessments which are required in 45 CFR 1304.20(a). These comments concerned the gathering of health and developmental assessment information for each child. Changes have been made to the standards to emphasize that Early Head Start and Head Start programs should assist parents in connecting to a "medical home" (45 CFR 1304.20(a)(1)(i) and that they should obtain information from a health care professional rather than gathering it themselves.

The last major change to this section relates to the requirements for health care services for children with disabilities. In response to the comments received throughout this section regarding the inter-relation of this section with the requirements of 45 CFR Part 1308, we modified 45 CFR 1304.20(f)(2) and have added four new standards at 45 CFR 1304.20(f)(2) (i)-(iv) in order to more clearly specify the requirements for programs serving infants and toddlers suspected of having or having diagnosed disabilities. These standards clearly state the requirement that Early Head Start staff coordinate with and actively support the efforts of Part H of the Individuals with Disabilities Education Act providers to attain expected outcomes in each child's Individualized Family Service Plan, including the support of transition activities. As such, they are consistent with and supportive of 45 CFR part 1308, which articulates the requirements for serving children with disabilities. The standards also emphasize our commitment to collaborate with other agencies serving Head Start families.

In addition to the major revisions to this section, a number of modifications were made to the wording in several of the standards in response to the comments received. For example, we substituted "consult with parents" for "inform parents" about suspected problems in 45 CFR 1304.20(b)(1) (45 CFR 1304.20(e)(1) in the final rule) because commenters wanted to acknowledge and support the two-way nature of the process. We have also specified that a child's "entry" into the program for the purposes of 45 CFR 1304.20(a)(1) and 45 CFR 1304.20(a)(2) means the first day that Early Head Start or Head Start services are provided to the child. Additionally, in response to technical comments received, we made two changes which do not result in any reduction of services: We dropped the reference to "dental bone" (45 CFR 1304.22(a)(3)(i) in the NPRM) which is not technically accurate, and we also deleted "dental sealants" (45 CFR

1304.22(a)(3)(ii) in the NPRM) as they are not customarily used for preschool children. In 45 CFR 1304.22(a)(2) (45 CFR 1304.22(b)(2) in the NPRM) the reference to "staff member" was removed because this section of the regulation addresses child health and safety issues. We will provide information on procedures for dealing with staff emergencies in the Guidance. We also reworded, and added new standards to, 45 CFR 1304.20(f)(2) regarding the roles of Early Head Start and Head Start and Part H staff in order to emphasize partnerships between grantee and delegate agencies and other agencies serving Early Head Start and Head Start children and families and to enhance collaboration with the Part H agency in supporting family involvement and child participation.

An issue raised by some commenters related to the appropriate role of parents in obtaining assessment, screening, and follow-up services for their children. Some commenters stated that the role of parents in 45 CFR 1304.20(e) (45 CFR 1304.20(b) in the NPRM) should be strengthened. They argued that parents should be required to accompany their child to all assessment, screening and follow-up services, both to be part of the decision making team and to learn about effective ways to advocate for their children's health care in the future. Others opposed requiring parents to be present during the health screening process, arguing that welfare reform requirements for parents to work or be enrolled in a training program greatly limit the ability of parents to accompany their children to these appointments. Although we clearly prefer that parents accompany their children to these appointments, we have not changed the standard, choosing instead to provide grantee and delegate agencies with the flexibility needed to respond to the circumstances facing individual parents in their communities.

Comments also were received on the information collection requirement that grantee and delegate agencies have "written documentation of their efforts to access other available funds for medical and dental services." (45 CFR 1304.22(a)(5) in the NPRM; 45 CFR 1304.20(c)(5) in the final rule). Commenters stated that it is sometimes difficult to obtain written documentation on why agencies refuse to pay for or will not provide services. It was not the intent of the standard to have other agencies provide this information, but, rather, to have Early Head Start and Head Start agencies create a record of their efforts to access other sources of funding. Thus, we have reworded the standard to require

programs to provide "written documentation of their efforts to access other available sources of funding" (45 CFR 1304.20(c)(5)).

The last group of comments on this section were requests for additional guidance on the following issues: how to share information with parents regarding staff concerns about their children; how to work with parents so that they effectively introduce upcoming health procedures to their children; how to obtain input from multiple sources concerning the child's behavior; and who might be used to conduct the different assessments. Each of these issues will be addressed in the Guidance to be developed at a later date.

#### Section 1304.21 Education and Early Childhood Development

Commenters generally supported the new standards regarding child development and education, and they applauded the standards' clarity, specificity, and developmental appropriateness. Many approved the fact that the standards cover the age range from birth to age 5 and address the common needs of young children across this age span. In addition, commenters supported the flexibility to design and implement programs to meet the needs of the whole child. Many positive comments also focused on the expanded discussion of the involvement of parents in the organization and delivery of education and early childhood development services.

Commenters expressed three overarching concerns regarding the education and early childhood development standards as they appeared in the NPRM: (1) They are not integrated with the disability regulations (45 CFR Part 1308), (2) they over-emphasize the center-based program option, and (3) they are unclear concerning curriculum development. First, a number of commenters questioned why the disability regulations were not integrated within this set of regulations. They felt that a fully integrated set of standards would be more powerful in communicating the message that services for children with disabilities is an integral part of Early Head Start and Head Start. They also suggested that it would be more practical for staff and parents to look at only one document to find a complete set of standards for the education of all children. We have chosen not to more fully integrate the disability standards into this set of standards at this time for the reasons discussed earlier in Part V of the Preamble. However, we have increased the cross-references to 45 CFR part 1308 in this section.

Second, many commenters felt that the standards were too oriented toward the center-based program option and did not fully discuss the delivery of services through other program options. In order to address these concerns, and to underscore the viability of the home-based program option, we have made several types of changes in the standards.

In response, we have added two standards to this section of the final rule to further support program implementation of the home-based program option. In 45 CFR 1304.21(a)(1)(iii) of the NPRM, the standard required a balanced daily program of staff-directed and child-initiated activities in center-based settings (45 CFR 1304.21(a)(1)(iv) in the final rule). A new standard, 45 CFR 1304.40(e)(2), reinforces that the home visitor must " \* \* \* build upon the principles of adult learning to assist, encourage and support parents as they foster the growth and development of their children." This standard makes clear the role of the parent in fostering child development.

The second standard is concerned with the physical development of children in home-based program options. In the NPRM, 45 CFR 1304.21(a)(5) discussed program requirements related to the physical development of children in center-based settings only. In the final rule, we have added 45 CFR 1304.21(a)(6) to support the physical development of children in home-based settings, stating that "grantee and delegate agencies must encourage parents to \* \* \* appreciate the importance of physical development, provide opportunities for children's outdoor and indoor active play, and guide children in the safe use of equipment and materials."

We also changed the wording in other standards in this section to clarify their relevance to the home-based option. In general, these changes have consisted of changing a verb, such as "provide." In the NPRM, the standards frequently required the grantee to "provide" a service. In order to reflect more accurately that grantee and delegate agency staff do not directly provide all of the opportunities and services in the home-based option, but rather work with parents to ensure that the breadth of services is provided, we have changed the language used. For example, in 45 CFR 1304.21(a)(4)(ii) of the NPRM, grantee and delegate agencies were required to support the development of cognitive and language skills by "providing opportunities for creative self-expression through activities such as art, music, movement,

and dialogue.” We changed “providing opportunities \* \* \*” to “ensuring opportunities \* \* \*” in the final rule to make clear that the standard applies to home-based as well as center-based options.

The NPRM encouraged comments on the standards related to the development of the curriculum (45 CFR 1304.21(a)(2)(i) and 45 CFR 1304.21(c)(1)). Commenters supported the requirements regarding the developmental and educational needs of young children, and stated that the requirements for the curriculum were strong and age-appropriate. However, many commenters requested clarification of the terms used in this section. The questions asked included: Must a new curriculum be selected each year, since the group of parents will change each year? What exactly is the role of the parents in the development, selection or adaptation of the curriculum? Do the standards require that each agency purchase a pre-packaged curriculum? Must each agency adopt a program-wide curriculum that will be uniformly implemented with each child? The intent of these standards was to ensure that parents, and potentially other persons, such as early childhood education professionals and Tribal elders, are integrally involved in the process of building a curriculum for their children, but the specific tasks in which the parents might be involved were not listed because they are the decision of each grantee or delegate agency.

The intent of the standard was not that agencies must select a new curriculum each year but, rather, that staff and parents work together to modify and individualize the curriculum. These decisions are the local agency's prerogative and these standards, therefore, reflect the flexibility we believe that local agencies should have. In the final rule, we have made clarifying changes in order to eliminate the confusion generated by some of the standards as proposed in the NPRM. We are now requiring in 45 CFR 1304.21(c)(1) that agencies “implement” a curriculum in collaboration with the parents rather than develop or select a curriculum that is adapted for each group and applied cocsistently in the program as proposed in the NPRM. A number of commenters also requested a definition of curriculum, and a definition applicable to both center-based and home-based options has been added in 45 CFR 1304.3(a)(5) of the final rule.

Based upon the recommendations of several commenters, we amended the standards at 45 CFR 1304.21(a)(1)(ii) (45

CFR 1304.21(a)(1)(iii) in the final rule) and 45 CFR 1304.21(a)(3)(i)(E) to require that grantee and delegate agencies support and respect gender, culture, language, ethnicity, and “family composition.” We also have added a new standard at 45 CFR 1304.21(a)(2)(iii) which more clearly links the staff-parent conferences in 45 CFR 1304.40(e)(4) and the home visits in 45 CFR 1304.40(i)(2) with opportunities for parents to discuss their child's development, progress and education.

Several commenters were concerned about the use and possible misuse of some new phrases. First, the heading of 45 CFR 1304.21, “Education and early childhood development,” was criticized as inventing a new discipline. We believe that this title appropriately reflects the substance of the section. It is not intended to, nor should it be read to, invent a new discipline.

Second, the requirement of helping children gain the skills and confidence needed to succeed in their present environment as well as later in life, including school, was used in 45 CFR 1304.21(a)(1). Further, the development of cognitive skills to form a foundation for school readiness and later school success was presented in 45 CFR 1304.21(c)(1)(ii). Several commenters felt that these references to the child's upcoming experiences in elementary school suggested that school performance is now the overall goal for Head Start's child development and education program, which is clearly not the case. In introducing this language, we did not intend to restrict or diminish Head Start's overall goal of increasing the social competence of young children. Rather, the intent was to recognize that the benefits of Head Start's attention to social-emotional, physical and cognitive development will be valuable in all settings, including schools. Primary schools require children to demonstrate skills in all of these areas: Not only must they respond to cognitive challenges, but they also are asked to interact with other adults and children, show responsibility and self-help skills, and demonstrate physical competence. Therefore, the language has been retained in the final rule.

Most of the other comments on the individual standards within the Education and Early Childhood Development section dealt with requests for the clarification of terms. In some instances, the commenters requested a change in the language used. For example, several found the phrases “individual preferences” and “individual patterns of development”

and “different ability styles” in 45 CFR 1304.21(a)(1)(i) confusing, and suggested changing them to “individual rates of development” and “individual interests, temperaments, languages, cultural backgrounds, and learning styles.” A number of commenters did not support the use of the terms “large muscle” and “small motor” skills in 45 CFR 1304.21(a)(5)(i) and 45 CFR 1304.21(a)(5)(ii), preferring “gross motor” and “fine motor.” Because the suggested language is clearer and more consistent with the field of child development, these changes have been made. A few commenters struggled with the use of the term “self-knowledge” in 45 CFR 1304.21(b)(2)(i) in the context of infants and toddlers, noting that infants and toddlers are not at the point of reflecting on their own state of being. Therefore, the term “self-awareness” has been substituted for “self-knowledge.”

A few commenters recommended that a balanced daily program (45 CFR 1304.21(a)(1)(iv)) should include activities which are “child-initiated and adult-directed,” rather than “staff-directed and child-initiated.” The final rule includes this recommended language. Finally, a few commenters recommended that the proposed standard at 45 CFR 1304.21(b)(3)(iii), requiring that infants and toddlers be supported in their toilet training and in their use of toilet facilities, be applied to preschoolers as well. These commenters stated that this issue is important to the development of all young children, regardless of age. We agree with this recommendation, and have organized the section so that this standard now appears in the section that applies to all children at 45 CFR 1304.21(a)(1)(vi).

#### Section 1304.22 Child Health and Safety

In general, commenters supported the increased emphasis on health and safety in 45 CFR 1304.22. In particular, they praised the addition of standards in the areas of hygiene (45 CFR 1304.22 (f)), short-term exclusion (45 CFR 1304.22(c)), and first aid (45 CFR 1304.22(g) in the NPRM and (45 CFR 1304.22(e), (b) and (f), respectively, in the final rule). Other commenters indicated that some of the standards in this section would impose additional costs on grantee and delegate agencies or needed to be further clarified.

While some comments indicated support for the section on the conditions of short-term exclusion and admittance (45 CFR 1304.22(c) in the NPRM), the majority found the wording to be confusing and contradictory. Some

commenters stated that this section may conflict with the Americans with Disabilities Act (ADA), in particular expressing concern that the proposed wording might result in the exclusion of children with conditions such as Human Immunodeficiency Virus (HIV) infection or severe behavioral problems. Our intent is not to permanently exclude children with chronic or communicable diseases. Rather, it is to ensure the health and safety of all children by requiring that grantee and delegate agencies exclude children who have short-term acute conditions that are contagious and pose an immediate risk to others in Early Head Start and Head Start settings. Infection with HIV is definitely not a condition of short-term exclusion; when proper precautions are used, children with HIV infections do not pose risks to others. We have streamlined, reworded, and reorganized this section (45 CFR 1304.22(b) in the final rule) in order to clarify our intent. As revised, the first paragraph (45 CFR 1304.22(b)(1)) relates to enrolled children with short-term injuries or illnesses (such as chicken pox or strep throat). The second paragraph (45 CFR 1304.22(b)(2)) stresses that grantee and delegate agencies must not deny children admission to, or participation in the program for a long-term period, solely on the basis of their health care needs or medication requirements (such as HIV or asthma), consistent with the requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act. Further clarification of issues, such as examples of acute conditions which pose a significant risk to health or safety, will be provided in the Guidance.

Some commenters raised concerns about potential confidentiality issues. For example, a number of comments were received on the proposed standard at 45 CFR 1304.22(c)(5) in the NPRM (45 CFR 1304.22(b)(3) in the final rule), which requires staff to ask parents about any health risks that their child may pose. Using HIV as an example, the majority of commenters focused on legal issues and the potential conflict between the standard, ADA, and other laws. The purpose of this standard is two-fold. First, it ensures that staff are informed about conditions that they may need to address during program hours, both to prevent contagion and to protect the affected children whose conditions may place them at risk of harm from contact with others. Second, it ensures proper observation and supervision for children who require close monitoring because of potential

side effects from the medications they are receiving. We have modified the wording of the standard for clarity. The standard at 45 CFR 1304.22(b)(3) now requires that grantee and delegate agencies “\* \* \* request that parents inform them of any health or safety needs of the child that the program may be required to address. Programs must share information, as necessary, with appropriate staff, regarding accommodations needed in accordance with the program’s confidentiality policy.”

Confidentiality concerns also were raised about the standard mandating the sharing of information with staff, parents, and physicians regarding a child’s reaction to medication (45 CFR 1304.22(d)(5) of the NPRM). Many commenters were concerned that information would be shared with others without expressed parental authorization. We agree with these concerns, and have changed the wording in the final rule (45 CFR 1304.22(c)(5)) to clarify that the intent of this standard is to ensure the health and safety of a child who is taking medication and to assist parents “\* \* \* in communicating with their physician regarding the effect of the medication on the child.”

Concerns raised about potential costs to grantees focused on two standards. First, while several commenters supported the standard mandating the use of a utility sink for cleaning potties (45 CFR 1304.22(f)(6) in the NPRM), a larger number raised concerns about the present lack of utility sinks in some centers and the costs of plumbing modifications. Nonetheless, due to the risk of contamination, and in the interest of the health and safety of all children and adults at Early Head Start programs, we believe that utility sinks must be used when cleaning potties. Furthermore, this requirement is consistent with licensing requirements or regulations in over one-third of the States. Therefore, we have made no changes to this standard, which can be found at 45 CFR 1304.22(e)(6) in the final rule.

Standard 45 CFR 1304.22(f)(7) on the spacing of cribs and cots also produced many comments. A number of commenters supported this standard, but the majority raised concerns about the cost of spacing cribs and cots three feet apart and the impact that this would have on programs’ ability to serve children: either more space would be required or the number of children served would decrease. After careful consideration, we have decided to keep the required space between cribs and cots at three feet (45 CFR 1304.22(e)(7)

in the final rule). Although we recognize the possible cost impact, we want to emphasize the importance of avoiding the spread of contagious illness and the need to allow for easy access to each child in case of an emergency.

A number of commenters indicated the need for clarification and additional information on several health and safety standards. For example, the majority of comments received on the proposed standard at 45 CFR 1304.22(f)(3) in the NPRM (45 CFR 1304.22(e)(3) in the final rule) mandating the use of gloves criticized the lack of clarity and the potential for a very rigid interpretation. This standard does not require staff to wear gloves during routine diapering or when wiping noses. Following guidelines established by the Occupational Safety and Health Administration, gloves are to be worn when staff come into contact with spills of blood or other visibly bloody bodily fluids. We believe that the proposed standard is sound, and will provide additional information on when gloves should be used in the Guidance and in training materials. Other health and safety standards that require further clarification will also be addressed in the Guidance.

Commenters also noted areas throughout this section in which staff would need training. In order to maintain consistency throughout the standards, staff development and training are addressed in 45 CFR 1304.52(k)(3), which requires that training be provided on the content of the Program Performance Standards. We will address specific training issues in the Guidance and through training and technical assistance efforts. For example, staff training on emergency procedures, such as CPR, first aid, and medication administration, will be addressed in the Guidance. We also recognize that the intent of certain health and safety standards is to ensure that staff demonstrate and implement health and safety practices and procedures. Accordingly, we have revised the language in 45 CFR 1304.22(c)(6) and 1304.22(d)(1) to clarify that intent.

In other cases, we have made changes in the standards themselves based upon the suggestions provided by commenters. For example, a few commenters proposed that emergency procedures be practiced monthly or on a specified time schedule. We agree that these procedures need to be practiced regularly, and have changed standard 45 CFR 1304.22(b)(3) of the NPRM (45 CFR 1304.22(a)(3) in the final rule) to reflect this important issue. We have not, however, specified a particular time

period in the standard, as some commenters suggested. We believe that grantee and delegate agencies need to exercise sound judgement in this area, and that establishing a schedule goes beyond the scope of Federal regulation. We intend to provide additional information on best practices in these areas in the Guidance. We also have deleted the reference to "staff member" in 45 CFR 1304.22(a)(2) (45 CFR 1304.22(b)(2) in the NPRM) because this section of the regulation addresses child health and safety issues. We will provide information on procedures for dealing with staff emergencies in the Guidance.

Finally, due to the changes made to 45 CFR 1304.20 on child health and developmental services, sections of the NPRM on medical and dental follow-up and treatment (45 CFR 1304.22(a) (1)–(5)) have been moved to 45 CFR 1304.20 in the final rule, since they are a key part of the processes described in that section.

#### Section 1304.23 Child Nutrition

Commenters were generally supportive of the nutrition standards, citing, in particular, the flexibility they give grantees in the implementation of the nutrition program. Criticisms centered around four issues. First, many commenters noticed the absence of a standard requiring that Early Head Start and Head Start grantee and delegate agencies participate in one of the child nutrition programs offered by the U.S. Department of Agriculture. They pointed out that such a requirement had been issued previously (see ACYF Transmittal Notice 80.2, dated April 17, 1980, and ACYF-IM-HS-95-29) and, in the interest of completeness, should be repeated here. We agree, and in order to consolidate the existing requirements have added a new standard, 45 CFR 1304.23(b)(1)(i) in the final rule, which states that "All Early Head Start and Head Start grantee and delegate agencies must use funds from USDA Food and Consumer Services Child Nutrition Programs as the primary source of payment for meal services. Early Head Start and Head Start funds may be used to cover those allowable costs not covered by the USDA."

Second, numerous commenters criticized the omission of the standard requiring the use of child-sized utensils and furniture. They strongly supported the use of such furniture and equipment, and stated that a standard was needed to facilitate such use. Although we also strongly support the use of age appropriate equipment and materials, such as child-sized utensils and furniture, we have not added such

a standard to this section, as we do not believe that Federal regulations should prescribe practice at this level of detail. A related standard, 45 CFR 1304.53(b)(1)(iii), continues to require that equipment, toys, materials, and furniture owned or operated by the grantee or delegate agency must be "age appropriate, safe and supportive of the abilities and developmental level of each child served \* \* \*," while leaving grantee and delegate agencies with the flexibility of determining how to implement this requirement in accordance with sound early childhood practice.

Third, many commenters criticized the inclusion of the words "family style" in the description of meal service in center-based settings (see 45 CFR 1304.23(c)(4)), arguing that: (1) The phrase could be interpreted in many ways, depending on family and cultural traditions; (2) some local and State laws prohibit "family meal service" for sanitation reasons; (3) in some instances teachers' job descriptions may be inconsistent with this requirement; and (4) it would be difficult to comply with this standard if the grantee or delegate agency is part of a local school system or purchases food service from an outside vendor because food may come to children in prepackaged portions. Many commenters recommended returning to language similar to that in the current standard. Although many of these concerns are valid, we have retained "family style" in the final rule, defining it simply as adults and children eating together, sharing the same menu, and talking together in an informal way. To address the stated concerns, the Guidance will discuss a variety of ways in which agencies might implement this standard. For example, it will suggest that, if teachers are required to have time off between morning and afternoon sessions, aides, volunteers, and other adult staff may eat with the children. In addition, if children's meals are already packaged in individual servings, staff and children may still enjoy eating together and talking.

Finally, several commenters were concerned about the proposed qualifications for nutrition staff, and stated that they had difficulties finding appropriately qualified staff in their communities. Because the qualifications of staff are discussed in a different section of the standards (45 CFR 1304.52(d)), we have consolidated the comments on nutrition staff qualifications in that location of the Preamble.

In addition to the four issues cited above, many commenters requested

clarification of the language used in the proposed standards. For example, several commenters cited difficulties in interpreting the term "nutritional assessment" in 45 CFR 1304.23(a) in the NPRM, indicating that this term, as used in medical communities, would require the services of a licensed assessor, increasing costs considerably. Since we did not intend that this evaluation of children be as extensive as a formal medical assessment, we have changed the title of 45 CFR 1304.23(a) from "Nutritional assessment" to "Identification of nutritional needs." In addition, we have clarified 45 CFR 1304.23(a)(1) by changing the phrase "The nutrition-related assessment data" to "Any relevant nutrition-related assessment data" to suggest that the data that are collected as a part of the medical and dental evaluations of children should be examined from the point of view of child nutrition and used to support and direct the nutrition program.

We received several comments on the information collection requirements to complete nutritional assessments and to record information on family eating patterns and community nutritional issues which are required in 45 CFR 1304.23(a). Some concern was expressed about the level of paperwork that would be required to document nutritional assessments with families. In response, we have clarified 45 CFR 1304.23(a)(1) so that, in identifying a child's nutritional needs, staff must take into account "any relevant nutrition related assessment" data. This will increase the flexibility in using pre-existing records rather than conducting special nutritional assessments.

Several commenters discussed the fact that their Health Services Advisory Committee was instrumental in identifying major community nutritional issues, and recommended that this group be identified by name in 45 CFR 1304.23(a)(4). We have adopted this suggestion, and have added the Health Services Advisory Committee to the list of sources to be used. A few commenters suggested changes in the phrasing of 45 CFR 1304.23(b), Nutritional services, and its subparts. Some stated that 45 CFR 1304.23(b)(1) was too prescriptive, as it implied that an agency must devise a special feeding schedule for each child. This was not the intent. In order to clarify the meaning of this standard, we have omitted the term "feeding schedules" and have changed the language to "\* \* \* a nutrition program that meets the nutritional needs and feeding requirements of each child, including those with special dietary needs and

children with disabilities.” We also have modified the language in 45 CFR 1304.23(b)(1)(ii) (45 CFR 1304.23(b)(1)(i) in the NPRM) by changing the list of required types of meals that must be served from “snack(s), lunch, and other meals, as appropriate” to simply “meals and snacks.” In response to comments requesting clarification of the term “sparingly” as used in 45 CFR 1304.23(b)(1)(v) in the NPRM (45 CFR 1304.23(b)(vi) in the final rule), we have rewritten the language to require that agencies serve foods “high in nutrients and low in fat, sugar, and salt.”

Several commenters requested the addition of more definitive food group references to 45 CFR 1304.23(c)(1). We have not changed the standard because we do not believe that Federal regulations should prescribe practice at this level of detail. However, the Guidance will discuss ways in which a variety of foods from all food groups can be served to children.

Finally, many commenters suggested new language for 45 CFR 1304.23(e), Food safety and sanitation. In 45 CFR 1304.23(e)(1), a few commenters requested clarification of the term “properly licensed” in reference to food service agencies. We have omitted the word “properly” in the final standard, using instead the phrase “licensed in accordance with State, Tribal or local laws.” Several commenters suggested that we add “formula” to the requirement for the proper storage and handling of breast milk in 45 CFR 1304.23(e)(2), as both of these substances may be brought from home to the center and need to be stored and handled appropriately. Although we believe that formula is covered under 45 CFR 1304.23(e)(1), which requires the safe and sanitary storage and preparation of food, we also have included it in 45 CFR 1304.23(e)(2) in order to re-emphasize the critical nature of food storage and handling for infants.

In addition to the issues raised with regard to nutrition and the requests for clarification of the language used in the standards, commenters also described the need for guidance in the implementation of several of the standards. Specifically, they requested more information on activities to promote effective dental hygiene (45 CFR 1304.23(b)(3)); a listing of the appropriate community agencies to involve in implementing nutritional services (45 CFR 1304.23(b)(4)); guidelines regarding the amount of time children should be given to eat meals and snacks (45 CFR 1304.23(c)(3)); a list of “other” dietary requirements that children might have (45 CFR 1304.23(c)(6)); suggestions for how

families can be assisted with food preparation and nutrition skills (45 CFR 1304.23(d)); and a detailed description of the optimal procedure for storing and handling breast milk (45 CFR 1304.23(e)(2)). These topics will be addressed in the Guidance materials to be published at a later date.

#### Section 1304.24 Child Mental Health

Commenters generally supported the increased emphasis on mental health services for children in the proposed standards, which they found to be consistent with the needs identified by grantees and with the recommendations of the Advisory Committee on Head Start Quality and Expansion. In particular, several commenters commended the increased emphasis on parent involvement in mental health. Commenters also supported the proposed standards’ listing of the mental health services to be provided. On the other hand, commenters expressed significant concern that the level of effort expected from the mental health professional in carrying out these services would be difficult to obtain because of the limited availability of such professionals, particularly in rural areas, and because of the costs of obtaining such services from these professionals.

Our intent in this section is to ensure that parents and staff understand the contribution that mental health services can make to the well-being of each child as well as the role that various individuals, including parents, staff, and mental health professionals, play in this effort. Therefore, we believe that it is important for mental health professionals to be included in program services. We do not mean, however, that mental health professionals must be hired as staff or be physically present on a daily basis. Rather, they must be available to provide services for which State licensing and certification are required, and to advise and make recommendations to grantee and delegate agencies as necessary. We have modified several standards to provide clarification in this area (see the previous discussion in this Preamble on 45 CFR 1304.20(b)(2) and 45 CFR 1304.20(d)).

Cost concerns were raised by commenters relative to the requirement in 45 CFR 1304.20(e) of the NPRM that ongoing assessments be conducted, which they interpreted to mean that the mental health professional must individually observe each child in Early Head Start or Head Start. This was not the intent. We have revised the standard in the final rule (45 CFR 1304.20(d)) to emphasize the need for grantee and

delegate agencies to implement procedures to identify new or recurring developmental concerns so that they can quickly make appropriate referrals. However, we leave agencies with the discretion to determine the level of involvement of mental health professionals. We do require, however, in 45 CFR 1304.20(b)(2) of the final rule on developmental, sensory, and behavioral screenings, that “Grantee and delegate agencies must obtain direct guidance from a mental health or child development professional on how to use the findings to address identified needs.”

Several commenters sought clarification on the level of effort and the costs implied by other requirements in the child mental health section. For example, some asked for a definition of “a schedule of sufficient frequency” in 45 CFR 1304.24(a)(2). We will provide information in the Guidance on determining a schedule of frequency most appropriate for meeting local needs. Likewise, some commenters asked if persons other than a licensed or certified mental health professional could perform some of the functions described in order to avoid costs to the agency and to ensure that an individual is available to perform the required services. Since we consider it critical that a licensed or certified individual be available to each program, we continue to require the services of mental health professionals. We encourage agencies to augment the services of mental health professionals with non-certified and non-licensed individuals as long as the functions these individuals serve are consistent with State licensing and certification requirements. In the Guidance, we will describe arrangements that demonstrate ways to make use of non-certified and non-licensed individuals in order to augment the services of mental health professionals. For example, some parent education and teacher consultation may be performed by non-certified or non-licensed individuals.

In response to the standard requiring agencies to utilize community mental health resources, 45 CFR 1304.24(a)(3)(iv), many commenters indicated that such services either do not exist in their communities or do not address Early Head Start and Head Start’s needs. Commenters strongly recommended that Early Head Start and Head Start agencies work with other community agencies serving children and families (e.g., child care or early childhood special education agencies) to develop and sustain family-centered services in their community. Although we agree with these comments, we have

not changed this requirement. Information on partnerships with mental health and other family support agencies in order to address mental health service needs will be provided in the Guidance.

### *Subpart C—Family and Community Partnerships*

#### **Section 1304.40 Family Partnerships**

Overall, the comments regarding the new Family Partnerships section expressed strong approval for the philosophy of supporting families to foster their child's development and assisting families to attain their personal goals. The comments made clear that the development of family partnerships is not a new activity for many Head Start grantee and delegate agencies, and that there are a variety of models and experiences which can be drawn upon in formulating successful partnerships. We have made every effort to allow for local program flexibility in the implementation of these standards.

Many of the commenters identified areas requiring clarification or further guidance on exactly "how to" implement particular standards. The need for enhanced training and resources was echoed throughout the comments. In response, minor revisions were made to several of the standards to improve their clarity. For most of the standards, however, additional information will be provided in the Guidance.

Several commenters expressed concern about the term "assessment" in the title of 45 CFR 1304.40(a) in the NPRM. As indicated by their comments, the term has many connotations and was understood by some to identify a particular process for determining family strengths and needs. This was not the intent. Rather, the new standard was designed to give grantee and delegate agencies the flexibility needed to develop their own strategies for working with a diverse group of families. However, in response to these concerns, the language in 45 CFR 1304.40(a) has been changed from "Assessment and goal setting" to "Family goal setting." To further strengthen the concept that grantee and delegate agencies must develop strategies that suit the interests, needs, and circumstances of the families that they serve, the language in 45 CFR 1304.40(a)(1) has been expanded to state that the process "must take into consideration each family's readiness and willingness to participate in the process." The new term to describe the document jointly created through this process is the Family Partnership

Agreement, which replaces the current standard related to conducting a family needs assessment.

Other commenters suggested that the language in several of the standards in 45 CFR 1304.40(a) conveys the sense that Early Head Start or Head Start staff are setting goals "for" families rather than "with" families. In order to strengthen the notion of partnerships, the language in several standards has been slightly modified. In 45 CFR 1304.40(a)(2), for example, the language has been changed from "assist parents" to "offer parents opportunities." Other similar changes were made throughout this section. We have also added language in 45 CFR 1304.40(a)(2) that further clarifies the role of parents and staff in home-based programs in the development of Family Partnership Agreements.

Commenters supported the increased coordination with families and other community agencies to avoid duplication between the Family Partnership Agreement and other preexisting family plans as required in 45 CFR 1304.40(a)(3). However, many raised issues related to confidentiality, timeliness, and the willingness of community agencies to share such information. Although we recognize that these constraints may exist and that partnerships cannot be mandated, we do expect agencies to find ways to develop partnerships, even with less willing partners, and to establish alliances that will provide the desired results over a period of time.

Commenters questioned the new requirement in 45 CFR 1304.40(b)(1)(i) that agencies directly provide emergency or crisis assistance to families as well as the possible costs and liabilities associated with the provision of such assistance. For purposes of clarity, we deleted the words "including such direct interventions as the provision of," and added "in areas such as." We emphasize that this standard, as revised, reflects our long-standing view that grantee and delegate agencies should continue to develop partnerships and to link families to existing community resources in order to address emergency or crisis assistance needs. We believe that this intent is further clarified if the standard is read in conjunction with the preceding language of 45 CFR 1304.40(b)(1).

Several commenters questioned which pregnant women are covered under 45 CFR 1304.40(c). These standards are limited to pregnant women enrolled in Early Head Start programs. However, we expect that all pregnant women, those in Early Head

Start as well as those in Head Start, will be provided with opportunities to learn about the principles of health and wellness as articulated in 45 CFR 1304.40(f)(2)(iii).

Many commenters responded favorably to the expanded integration of parent involvement throughout the standards and especially to its emphasis within the section on Family Partnerships. Other comments regarding parent involvement raised several concerns. One concern focused on the issue surrounding parent involvement activities for parents who are working or who are in training and are not able to spend time in their child's classroom. Many grantee and delegate agencies have faced this situation for some time, and have developed an array of methods to involve parents in less traditional ways. Given the shift towards increased workforce participation for the parents of young children, agencies are expected to offer parent participation opportunities to all interested family members, both men and women, in a sufficiently varied manner that enables them to participate. We recognize the added challenges of encouraging parents to participate. However, we believe that 45 CFR 1304.40 (d)–(f) encourage grantee and delegate agencies to broaden their vision about how to develop and implement meaningful parent involvement opportunities. Additional discussion will be included in the Guidance.

In response to several comments that encouraged us to support a wide range of parent involvement opportunities, we have changed the language in 45 CFR 1304.40(d)(1) from "must provide parent involvement and education activities that are responsive to the ongoing and expressed needs of the parents themselves" to "must provide parent involvement and education activities that are responsive to the ongoing and expressed needs of the parents, both as individuals and as members of a group."

The parent involvement standards include the requirement in 45 CFR 1304.40(e)(3) that grantee and delegate agencies provide, either directly or through referrals, opportunities for children and families to participate in family literacy services in accordance with Section 641(4)(c)(i) of the Head Start Act, as amended. Although a few commenters indicated that providing such services would result in a financial burden, the majority made no mention of additional costs or concerns surrounding this requirement. We interpreted this to mean that the funding received by grantee and delegate agencies for family literacy,

which is now part of their basic grants, covers costs related to this service; and that resources for family literacy activities are available in most communities, and that grantee and delegate agencies expect to be able to work with community providers to support family literacy efforts.

Commenters raised questions about the requirements of 45 CFR 1304.40(e)(4) and 45 CFR 1304.40(i)(2) regarding the relationship between staff-parent conferences and teacher home visits. These standards require a minimum of four parent contacts (two home visits and two staff-parent conferences) throughout the program year. To clarify this intent, and to emphasize the importance of contacts between education staff and parents, a new standard was added in 45 CFR 1304.21(a)(2)(iii) which encourages parents to participate in staff-parent conferences and home visits to discuss their child's development and education. In addition, language was added to 45 CFR 1304.40(i)(2) to emphasize the importance of other staff making or joining home visits, as appropriate. Other clarifying information on this topic will be provided in the Guidance.

Numerous commenters on 45 CFR 1304.40(g)(1)(ii) proposed that the provision of a comprehensive community resource list to parents be mandatory, rather than being provided "when available." We have revised the standard to require that agencies "establish procedures to provide families with comprehensive information about community resources" in order to better reflect the intent that providing families with such information is a cornerstone of parent involvement activities.

The requirement at 45 CFR 1304.40(h)(2) to conduct staff-parent meetings to support transition services in accordance with section 642(d)(4) of the Head Start Act, as amended, raised concerns among some commenters, particularly related to the timing of these meetings at the end of children's participation in the program. We expect that, throughout the program year, parents will be provided with opportunities to expand their knowledge about community services and resources and to develop networks and relationships with families, service providers, community agencies, and school systems. Therefore, the standard has been retained as proposed.

Commenters expressed their support for the acknowledgment that home visits may present safety hazards for staff in 45 CFR 1304.40(i)(4). However, we want to emphasize the importance of

home visits occurring in the home setting to the extent possible in order to maximize the personal interaction of the parent, child, and program staff, and we will further address the topic of home visits in the Guidance.

#### Section 1304.41 Community Partnerships

Many of the comments on the new Community Partnerships section strongly endorsed the focus on community planning, cooperation, and information sharing in order to improve the delivery of community-based services to children and families. The standards on parent involvement in transition services in 45 CFR 1304.41(c) also generated favorable comments. While a number of commenters stated that cultivating alliances with other community agencies and service providers takes time and persistence on the part of Early Head and Head Start grantee and delegate agencies, a significant number indicated that they have already embraced this process, and that the families they serve are reaping the benefits of these partnerships. Many of the comments included practical information on successful efforts to build such partnerships. This information will be integrated into the program Guidance.

While the comments were generally positive, two important concerns with respect to the development of community partnerships emerged. First, one group of commenters expressed concern about the likelihood of success in developing community partners, as required in 45 CFR 1304.41(a), citing the competition for scarce resources and local obstacles, both of which have prevented cooperation in the past. As the development of community partnerships is now a requirement, concerns around monitoring issues were also expressed. Specifically, many commenters stated that grantee and delegate agencies, by themselves, cannot make parents and communities receptive to partnerships.

We recognize that fostering and building partnerships is an activity that occurs over time and will require differing levels of effort for Early Head Start and Head Start grantee and delegate agencies. However, we firmly believe that these agencies have both the responsibility and the capacity to provide leadership in their communities to promote access to services that will enhance the well-being of families and children. While the standards do set high expectations for agencies, they also provide the flexibility needed to respond to a wide variety of circumstances. We are confident that

each agency can demonstrate progress in this area, recognizing that, for some, partnerships will develop more slowly than for others. Therefore, the intent of 45 CFR 1304.41(a) remains unchanged. We will support agencies in these efforts by providing program Guidance and training for staff in the area of developing partnerships.

The second overarching theme that was raised is the need for additional resources, both staff time and training, to support the development of community partnerships. The commenters stressed that cultivating relationships with a variety of agencies and organizations requires time to make telephone calls, to attend meetings, and to share ideas. While this move toward a greater emphasis on community partnerships may require an initial shifting of responsibilities and scheduling for staff in some agencies, we expect that, over time, this effort will become an integral and routine part of agency operations. The standards provide agencies with a great deal of flexibility in deciding how to undertake this effort. We are also providing additional funds for transition coordination. With these additional resources and targeted training, we expect that every agency will be able to meet these standards.

The remaining comments about the Community Partnerships section addressed specific standards. For example, 45 CFR 1304.41(a)(2) contains a list of community agencies and service providers with which Early Head Start and Head Start agencies must take steps to establish ongoing relationships. The commenters, while supportive of the proposed list, provided many potential additions. We believe that the list of potential partners provided in the NPRM represents a core set of resources that will be found in most communities. In developing this list, we attempted to create a balance between articulating a range of entities representing a possible complement of community partnerships and not causing a burden on agencies located in areas that lack supports. Agencies are encouraged to expand upon this list. We have made one addition to the standard, namely "businesses," in order to include another important community partner (45 CFR 1304.41(a)(2)(ix)).

Commenters questioned the rationale for mandating a Health Services Advisory Committee in 45 CFR 1304.41(b), while making other Service Area Committees voluntary. We structured the standard in this manner to minimize regulatory burden and to ensure flexibility for local grantee and delegate agencies. A Health Services

Advisory Committee is required in the current regulation. We have maintained this requirement because our experience indicates that the Committee plays an important role in helping grantee and delegate agencies access needed health services for Head Start children and families as well as in ensuring that agency health and safety practices are consistent with the most current information available from the health fields. We support the importance of grantee and delegate agencies structuring and operating additional Advisory Committees should they feel the need to do so.

Commenters also requested clarification about the transitioning of Early Head Start children and how to plan for the next level of service. Therefore, to provide the greatest degree of flexibility possible for the program and the family, and to allow for adequate advance time for consideration of potential alternate placements, a new standard, 45 CFR 1304.41(c)(2), has been added which describes the transition planning process. We received a few comments about the information collection requirements regarding the building of partnerships in the community in 45 CFR 1304.41. Commenters supported the partnership building process, but were unsure about how to document it. In response, language was added to 45 CFR 1304.41(a)(1) to state that programs should document "the level of effort undertaken to establish community partnerships." This language also responds to the concerns expressed by some commenters about situations where community planning efforts are not supported by other community groups. This requirement gives agencies a chance to document their ongoing efforts, which may not always be successful.

#### *Subpart D—Program Design, Design and Management*

##### **Section 1304.50 Program Governance Standards**

Commenters stated that the proposed standards in the Program Governance section more clearly outline the structure, responsibilities, and roles of the governance structure within Early Head Start and Head Start than do the existing standards. In addition, they supported the greater focus in these standards on parent decision-making responsibilities which broaden and increase the linkages between the governance structures. Commenters also approved the renaming of "Center Committee" to "Parent Committee" in 45 CFR 1304.50(a)(1)(iii), viewing this

change as reflecting consistency among all of the program options, since a "Parent Committee" must exist regardless of the program option. Many positive comments focused on the increase to 51 percent representation of parents of currently enrolled children on the Policy Councils and Policy Committees (45 CFR 1304.50(b)(2)). Many said that this requirement maintained the intent and philosophy of Head Start.

Commenters also expressed a number of concerns about the governance section as a whole. First, a general sense of confusion existed about the role of the Parent Committee as a policy-making body because the proposed standards erroneously implied that Parent Committees have formal policy-making authority. Parent Committees are part of the shared decision-making governance structure and perform a number of functions, including planning with staff and providing input regarding program decisions. They also provide leadership in electing Policy Council representatives to perform policy-setting tasks. To address the concerns, we changed 45 CFR 1304.50(a) from "Policy group structure" to "Policy Council, Policy Committee, and Parent Committee structure."

Second, nearly all of the commenters were critical of giving Early Head Start and Head Start programs the latitude to determine term limits for Policy Council and Policy Committee members (45 CFR 1304.50(b)(5)). The intent was to provide greater flexibility to local agencies than exists in the current standards. However, many commenters felt that term limits were necessary because of the benefit they provide to the parents and the program. In response to the overwhelming comments that membership on the Policy Council or Policy Committee should be limited to a combined total of three one-year terms, we have restored this requirement.

In § 1304.50(b)(7) the word "adequately" was changed to "proportionally" for clarification purposes. Grantee and delegate agencies operating programs with more than one program option are expected to ensure that there is sufficient representation from each option on the policy groups and for establishing a ratio of representation on the Policy Council or Policy Committee that is proportionate to the relative size of each of the program options.

A final area of concern raised by many commenters related to "Appendix A: Policy Group Responsibilities." Appendix A, as proposed in the NPRM,

attempted to resolve some long-standing misunderstandings about the chart in Appendix B to the current Program Performance Standards, most commonly known as 70.2. In the proposed Appendix A, we omitted the columns for the Executive Director and the Early Head Start or Head Start Director to emphasize and depict the roles and responsibilities within the governance structure. However, in response to the overwhelming recommendations from commenters, we have reconfigured Appendix A to include columns for key management staff responsibilities in order to emphasize the linkages and partnerships between the policy groups and the management staff of Early Head Start and Head Start programs. In order to build strong partnerships when there is a shared decision-making structure, it is essential that the roles and responsibilities of each entity be clearly understood. However, we want to emphasize that it is the responsibility of each agency's governing body to establish the role of the agency director and to participate with the Policy Council or the Policy Committee in setting the direction for the Early Head Start or Head Start director's role in managing the day-to-day operations of the program.

To underscore and support linkages and partnerships among the governance functions and the management staff functions, we have made several changes in Appendix A. First, we retitled the chart "Governance and Management Responsibilities." Secondly, we cross-referenced applicable standards to the functions listed in Appendix A. Third, we added cross-references to appropriate standards in 45 CFR Part 1304.51, Management Systems and Procedures, and in 45 CFR part 1301, both in the standards and in Appendix A. Fourth, as stated above, two columns have been added to the chart regarding the roles and responsibilities of key management staff and how they relate to the governing bodies and policy groups of Early Head Start and Head Start programs. In some cases, we consolidated similar functions to improve clarity and avoid repetition. Fifth, we added a new standard, 45 CFR 1304.50(g)(2), to the body of the regulation. Previously, this requirement was presented only in Appendix A. This new standard clearly outlines the responsibility of grantee and delegate agencies to ensure that there are appropriate internal controls established and implemented to safeguard Federal funds, in accordance with 45 CFR 1301.13. In addition, to further

underscore the importance of the oversight functions of the grantee or delegate agency governing bodies, 45 CFR 1304.50(d)(1)(ix) was added. It cross-references 45 CFR 1301.12, which requires each Early Head Start and Head Start program have an annual independent audit.

In order to underscore linkages and partnerships between governance structures and management staff, we removed the word "help" from 45 CFR 1304.50(d)(1) and added the language " \* \* \* work in partnership with key management staff and the governing body to develop, review, and approve the following policies and procedures \* \* \* ". A number of commenters recommended changing the word "agency" to "program" in 45 CFR 1304.50(d)(1)(iv), and we have done so in order to more closely match the corresponding standard in Management Systems and Procedures, 45 CFR 1304.51(a)(1)(ii). The standard now reads, "The program's philosophy and long- and short-range program goals and objectives."

In many instances, commenters requested more specific language in the standards. For example, in response to the comments received, we added more stringent language in 45 CFR 1304.50(b)(6) which excludes staff of grantee and delegate agencies and members of their immediate families from participating on policy groups. We also added language to limit exclusions of Tribal staff.

Commenters also recommended several changes or additions in wording to increase clarity. For example, commenters found the requirement that community representatives " \* \* \* provide resources and services to low-income children and families" in 45 CFR 1304.50(b)(4) in the NPRM to be unduly restrictive of community membership, and stated that it posed a potential conflict of interest for community members. We agree, and have changed the language in 45 CFR 1304.50(b)(3) in the final rule to individuals who are " \* \* \* familiar with resources and services for low-income children and families" in order to broaden the pool of potential community representatives. Several commenters suggested that a definition be provided for "parents of currently enrolled children" and, in response, we have cross-referenced the definition of "Head Start parent" in 45 CFR 1306.3(h) in 45 CFR 1304.50(b)(2) in the final rule. A few commenters called our attention to the incorrect inclusion of the term "indirect cost rates" in 45 CFR 1304.50(d)(1)(i). We have replaced this term with "administrative services,"

which more accurately reflects the intent in this standard.

Finally, commenters suggested adding language to 45 CFR 1304.50(d)(1)(x) to clarify which staff hirings or terminations the Policy Council or Policy Committee can review and approve or disapprove. We have created two standards to increase clarity. The first standard, 45 CFR 1304.50(d)(1)(xi), addresses decisions related to the hiring or termination of the Early Head Start or Head Start director. The second standard, 45 CFR 1304.50(d)(1)(xii), relates to the hiring or termination decisions regarding other Early Head Start or Head Start staff. A few commenters also questioned the legality of Policy Councils and Policy Committees being involved in hirings or terminations because it might violate employees' rights to privacy. We believe that the procedures, when properly implemented, will ensure that staff rights are protected.

#### Section 1304.51 Management Systems and Procedures

In general, there was strong support for the addition of a new section on management systems and procedures, since it added standards in areas that are critical to program quality but which are not addressed explicitly in current Head Start regulations. Commenters suggested that having all of the standards on management systems and procedures in one place would facilitate program implementation. Many commenters stressed that strong systems are essential to maintaining quality in Early Head Start and Head Start programs. They particularly liked the standards on planning and communication, stating that they were well written and clear. Where commenters suggested changes, they generally requested wording changes to help clarify a standard, rather than significant changes.

Overall, there was strong support for addressing planning in the standards and for the clarity of the language and intent of 45 CFR 1304.51(a) on program planning. There were, however, a few requests to change or clarify wording, including a recommendation by several commenters to change the term "Community Needs Assessment" to "Community Assessment." They felt the latter term is more inclusive, taking into account community strengths and assets as well as needs. We agree with this recommendation, and have changed the term to "Community Assessment" in this section. Conforming changes also were made in 45 CFR 1305.3.

We invited comments in the NPRM on whether the standards in 45 CFR

1304.51(g) should require that record-keeping systems be supported by appropriate computer technology, and whether such a requirement would pose an unreasonable burden for agencies. Most commenters, while supporting the use of computer technology as a cost-efficient means of enhancing the accuracy and timeliness of record-keeping functions, thought that computerized record-keeping should not be required. Most said that such a requirement would place an undue financial burden on local programs, unless they received additional funding for computers, computer software, additional training for staff, additional support staff to enter data, and technical support. Such support would be needed, as many agencies, particularly small and rural ones, lack the infrastructure and funding to support computer technology. In response, we have not added language that would require record-keeping systems to utilize computer technology. In the Guidance, however, we intend to encourage grantee and delegate agencies to use technology to more efficiently manage records and other program information.

Some commenters noted that we did not address the confidentiality of records in 45 CFR 1304.51(g). We agree that this concern should be addressed, and have added language in the final rule stating that grantee and delegate agencies must ensure the " \* \* \* appropriate confidentiality of \* \* \* information" contained in the records.

We received many supportive comments on 45 CFR 1304.51(i), program self-assessment and monitoring. Commenters expressed support both for the description of self-assessment as a process for program improvement, rather than as one to address compliance issues only, and for the addition of language in the standard related to effectiveness and progress in meeting grantee-specific program goals and objectives. There were some requests for clarifications of the wording used. Commenters thought, for example, that the language in 45 CFR 1304.51(i)(1) requiring that self-assessments be conducted "in consultation with other community agencies" was confusing, particularly since the standard also states that the self-assessment must be conducted "with the consultation and participation of policy groups." In response, we have slightly reworded the standard, while retaining the intent of involving community agencies in the self-assessment process.

Commenters noted that 45 CFR 1304.51(i)(2) called for monitoring the

program operations of delegate agencies, but not those of grantees. In response, we have clarified that grantees must monitor their own Early Head Start or Head Start program operations as well as, in the case of Head Start, those of each of their delegate agencies, since it is the intent of this standard that Early Head Start and Head Start grantees ensure that high quality services are being delivered in their own programs as well as by Head Start delegate agencies.

Several commenters took issue with the fact that, in 45 CFR 1304.51(i)(3), we state that the grantee must inform the delegate agency governing body of any deficiencies that are identified in the review of delegate agency performance. They thought it inappropriate to inform the governing body before staff have an opportunity to correct a problem. We did not change this standard, since the governing body of a grantee or delegate agency is ultimately responsible and accountable for ensuring that all Head Start regulations are met.

#### Section 1304.52 Human Resources Management

Overall, there was considerable support for the proposed Human Resources Management standards, particularly in the areas of qualifications for the Early Head Start or Head Start director and a number of other staff positions, training and development, staff performance appraisals, and standards of conduct. Commenters agreed that the increased emphasis on these areas would directly promote improved program quality. Criticism focused on: Organizational structure and management roles; staff qualifications and availability for some staff positions; staff and volunteer health; staffing patterns; and staff training and development. Each of these issue areas is discussed in turn below.

Some commenters felt that the proposed standard at 45 CFR 1304.52(a)(1) on organizational structure did not give sufficient flexibility to programs in designing their own organization and in developing staff positions. However, after reviewing the standard in light of these comments, we have concluded that it does not need to be changed, because the original standard is written to provide the flexibility the commenters desired. This standard requires that agencies adopt an organizational structure that will suit their own individual needs while addressing the management functions contained in the standards, but it does not, and is not intended to, require any specific organizational structure. We agree fully with commenters that

individual programs are organized very differently to meet the particular needs of the children and families they serve.

Commenters also found the proposed standards on program management roles at 45 CFR 1304.52(a)(1), 45 CFR 1304.52(a)(2), and 45 CFR 1304.52(b)(2) confusing, and we have tried to address these concerns. One area of confusion related to whether the management roles specified in 45 CFR 1304.52(a)(2) were different from the positions identified in 45 CFR 1304.52(c) (2)–(5) (45 CFR 1304.52(d) in the final rule) regarding management staff qualifications. We have made several changes to reduce this confusion. First, we have substituted the term “functions” for “roles” in 45 CFR 1304.52(a)(2) to clarify that we are only requiring that the expertise to perform these management functions exist somewhere within each agency. How and to what extent an agency provides for this expertise in its organizational structure is dependent upon its needs. In many cases, agencies will choose to divide each of the responsibilities, or functions, listed among more than one program manager. Second, we deleted the list of positions at 45 CFR 1304.52(b)(2) in the NPRM since it was confusing, and was intended only to reference other positions that might be regulated in this Part or in 45 CFR Part 1306.

With regard to 45 CFR 1304.52(b)(3) concerning the employment of current and former Head Start parents, the NPRM stated that parents “\* \* \* must receive preference for employment vacancies if they are well qualified.” Most commenters suggested that the word “well” be eliminated, since it is a subjective term that is difficult to define and might discourage agencies from considering parents for many positions. We agree with this concern, and have made this change. We have also added Early Head Start parents to this standard.

Finally, 45 CFR 1304.52(c), which addresses management staff qualifications, now only includes qualifications for the Early Head Start or Head Start director. A number of commenters noted that limiting the director’s training and experience to the areas of early childhood or human services program management is too restrictive, and that management skills and abilities are critical qualifications for this position. Therefore, we have changed the language in the standard to state that the director must have “\* \* \* demonstrated skills and abilities in a management capacity relevant to human services program management.”

The remainder of 45 CFR 1304.52(c) in the NPRM has been reorganized as 45 CFR 1304.52(d) in the final rule and retitled “Qualifications of Content Area Experts,” since it refers to staff or consultant positions related to individual program content areas. We have also substituted the term “supported by” for “managed by” to highlight that staff or consultants who provide the necessary content area expertise to an agency do not necessarily have to be designated as managers. We do, however, expect these individuals to provide expertise and oversight in activities such as planning, service delivery and staff training and development.

A major concern raised related to the specific kinds of staff qualifications that are proposed for certain managerial positions, such as health, nutrition, and mental health. Many commenters were concerned that, particularly in rural areas, staff who meet the proposed qualifications for these positions may not be available. A secondary concern was the impact that the proposed qualifications might have on current staff, who do not possess the proposed qualifications for the roles they are currently performing.

In addressing these concerns, we tried to balance our commitment to program quality, as suggested by the Advisory Committee on Head Start Quality and Expansion, with our commitment to providing maximum flexibility to grantee and delegate agencies. On the one hand, we want to ensure that staff are well qualified to perform their work with children and families, since the quality of staff has a direct bearing on the quality of an Early Head Start or Head Start program and the services it provides. On the other hand, we tried to ensure that the new standards are sufficiently flexible to allow agencies both to look outside their programs for needed expertise and to provide current employees time to obtain the additional training that they will need. For example, in the new standard at 45 CFR 1304.52(d), we added language that allows for the use of consultants on a regularly scheduled or ongoing basis in agencies where staff do not possess the expertise to provide the content expertise or oversight roles in education and early childhood development, health, nutrition, mental health, family and community partnerships, parent involvement, disabilities services, and fiscal services.

In addition, in response to the comments received, we have provided greater flexibility with regard to two of the specific oversight roles listed in the new 45 CFR 1304.52(d). In the area of

nutrition, we have deleted the reference to full-time personnel, since commenters pointed out that it is inconsistent with other standards in this section. In response to the comments, and in consultation with our colleagues in other agencies, we believe that nutrition services must be supported on at least a regularly scheduled consultant basis by registered dietitians or nutritionists. However, the Guidance will clarify how other professionals, such as Certified Dietary Managers, may be used to help support nutrition services as well. In the new 45 CFR 1304.52(d)(8), we dropped the requirement that the fiscal officer possess "Certified Public Accountant or other appropriate credentials," since many commenters raised the issue of cost regarding this requirement. However, even though it might entail additional costs to agencies, we still require that fiscal officers be "qualified" to perform their responsibilities, since this is a critical area in ensuring program quality. In some cases, agencies may decide that a CPA provides the most appropriate qualifications for their particular program.

We believe that the persons providing expertise and content oversight in the program areas listed in 45 CFR 1304.52(d)(1)–(8) must have the broad kinds of training, experience, and license or certification specified, since their jobs require them to provide direction to and input into program planning and service delivery, as well as training and other developmental activities to staff in program content areas who are working directly with children and families. Therefore, we have left the kinds of training and experience listed largely unchanged for each of the oversight roles. However, we decided not to define what "training and experience" means in regulation, in the interest of allowing maximum flexibility for grantee and delegate agencies. We will provide examples of best practice with regard to training and experience in the program Guidance.

Finally, many commenters asked if there would be opportunities for current staff who do not meet the qualifications required in this Part to remain in their positions through provision of a "grandfather clause." Although we have not chosen to provide such language in the final rule, we note that the effective date at 45 CFR 1304.2 by which agencies must implement the new rule has been extended to January 1, 1998. This will provide each agency with the opportunity to review the qualifications of its current staff and to assist staff in obtaining the necessary additional training, where appropriate. In addition,

as previously mentioned, the needed expertise can also be obtained through regularly scheduled program consultants.

The Preamble to the NPRM stated that § 1304.52(f) cross-referenced the requirements in section 648A of the Head Start Act. Our intent was to require the Child Development Associate (CDA) or equivalent credential for Early Head Start teachers and other staff working as teachers of infants and toddlers as well as for regular Head Start teachers. Some commenters indicated that our language did not clearly convey this intent. We therefore have revised this standard to make clear that the staff working as teachers of infants and toddlers are required to obtain the Child Development Associate or equivalent credential.

Most of the commenters agreed that it was important to have qualifications for infant and toddler staff to ensure program quality, and many specifically supported the proposed requirement in 45 CFR 1304.52(f) that staff working as teachers have the CDA or an equivalent credential. However, there were some concerns. First, commenters found the use of the term "caregiver" ambiguous, confusing and, for some, "unprofessional." Second, a number of commenters expressed confusion as to which classroom staff would be required to obtain CDAs or equivalent credentials, with some commenters suggesting that we set a minimum standard for all classroom staff. Third, concern was expressed that we needed to provide a reasonable period of time for staff to earn their CDA or equivalent credential. Finally, some commenters felt that insufficient detail was provided regarding the training and experience necessary for infant and toddler staff.

In response to these comments, we have changed, as discussed in the section in this Preamble related to 45 CFR 1304.3, the term infant and toddler "caregiver" to "teacher." In response to the second issue described above, we have modified § 1304.52(f) to indicate that all staff working as classroom teachers, including those working as teachers of infants and toddlers, are required to obtain CDAs or equivalent credentials. We did not, however, prescribe a minimum standard for all classroom staff, because we believed that it would impede the ability of some programs to hire staff from the communities they serve and to provide career development opportunities for parents and former parents of program children. With regard to the third issue, we have revised the standard to indicate that current teachers of infants and

toddlers must obtain a CDA credential or its equivalent within one year of the January 1, 1998, effective date of the final rule. We believe that this will provide sufficient time for infant and toddler teachers to obtain the necessary credentials. Finally, we have amended § 1304.52(f) to require that Early Head Start staff or other staff working as teachers of infants and toddlers must obtain a specific CDA credential for infant and toddler caregivers or an equivalent credential that addresses comparable competencies. In our Guidance to the field, we will provide examples of appropriate training and experience for staff working with infants and toddlers.

In response to commenters' requests, we have added a new standard at 45 CFR 1304.52(e) regarding home visitor qualifications. This standard does not require specific academic training, certification or licensure, because of the many different kinds of backgrounds that could be appropriate. Instead, it requires that home visitors have knowledge and experience in key areas related to child and family growth and development.

Many commenters supported the standard at 45 CFR 1304.52(i)(1) (45 CFR 1304.52(j)(1) in the final rule) requiring initial health examinations and periodic re-examinations for staff, since they believe that this standard will safeguard the health and wellness of Early Head Start and Head Start children and families as well as staff. However, there were some concerns about requiring health examinations for all staff, rather than just for those with direct contact with children. We have decided that it is important to retain the requirement that all Early Head Start and Head Start staff receive health examinations, as each staff member is a model for enrolled families.

Many comments addressed the standard at 45 CFR 1304.52(i)(2) in the NPRM (45 CFR 1304.52(j)(2) in the final rule) regarding the screening of volunteers for tuberculosis. First, some commenters felt that we were being inconsistent in requiring tuberculosis screening for volunteers in 45 CFR 1304.52(i)(2) of the NPRM, but not requiring such screening for staff in 45 CFR 1304.52(i)(1). We agree with this concern, and have added a requirement for the tuberculosis screening of staff to this standard (45 CFR 1304.52(j)(1) in the final rule) to clarify our previous intent that this screening be included in health examinations for all staff.

Second, many commenters felt that whether volunteers were screened for tuberculosis should depend on State and local health department regulations;

others felt that this would be an appropriate issue to take before their Health Services Advisory Committee. Because the prevalence of tuberculosis varies considerably among communities, we agree that State and local health requirements should be followed, and that input should be sought from the Health Services Advisory Committee. Therefore, the standard, as revised (45 CFR 1304.52(j)(2) in the final rule), now states that "volunteers must be screened for tuberculosis in accordance with State, Tribal, and or local laws." In the absence of any such laws, we have required that the Health Services Advisory Committee make recommendations about tuberculosis screening for volunteers.

Other commenters wanted a clearer definition of a volunteer, and questioned whether the term included parents. If volunteers were to include parents, many respondents felt that this standard would have a negative impact on parent involvement. Others felt that the screening requirement should only apply to "regular" volunteers, and not to "one-time" or "occasional" volunteers. Many felt that, if the screening were required of all volunteers, it would reduce their numbers and, ultimately, impact on the agencies' non-Federal share. We agree that tuberculosis screening should apply only to regular volunteers, and not to parents who might drop in to a center to visit or to the fire chief who comes in to discuss fire prevention week. As a result, we have added the word "regular" before the term "volunteer" in the standard, and have cross-referenced the term "volunteer" to the definition in 45 CFR 1304.3(a)(20) in the final rule.

Many commenters commended the Head Start Bureau for addressing the mental health and wellness concerns of staff at 45 CFR 1304.52(i)(3) (45 CFR 1304.52(j)(3) in the final rule), but felt that this standard could be very costly to implement. Further, they asked for clarification on how agencies could "assist staff" in addressing their mental health and wellness concerns. As a result of these comments, we have substituted the phrase "\* \* \* make mental health and wellness information available to staff" for the words "assist staff" to reduce cost and to provide greater clarity. The Guidance will provide further details about the kinds of information that agencies could provide to their staff.

Commenters supported the inclusion of the section on staffing patterns (45 CFR 1304.52(j) in the NPRM and 45 CFR 1304.52(g) in the final rule), but raised several concerns, particularly regarding

the terminology used. To address these concerns, we have made several changes. First, for the sake of clarity, we changed the title of this section to "Classroom staffing and home visitors." Second, we substituted the term "group" for "room" in 45 CFR 1304.52(g)(4) in order to be consistent with 45 CFR 1306.20. We have not changed 45 CFR 1304.52(j)(2) (45 CFR 1304.52(g)(2) in the final rule) regarding multi-lingual staff or 45 CFR 1304.52(j)(3) (45 CFR 1304.52(g)(3) in the final rule) regarding the use of substitutes, despite requests for changes from some commenters. With reference to the first standard, we feel that it would be too costly to require agencies to ensure that teachers or paid aides speak the languages of every child in the classroom. In addition, 45 CFR 1304.52(b)(4) safeguards the goal of best practice by requiring that staff and program consultants be able to communicate, to the extent feasible, with children and families with no or limited English proficiency. With reference to 45 CFR 1304.52(g)(3), while we recognize the cost burden that the use of substitutes may pose for agencies, we believe that substitutes have always been encouraged in practice and are critical to maintaining high standards of program quality.

Most commenters were strongly supportive of the new section on staff training and development at 45 CFR 1304.52(k). Although few specific changes to the language of this section were suggested, some commenters questioned why only two training topics were specifically mandated in 45 CFR 1304.52(k)(3). In response, we did not wish to limit agency flexibility by mandating a specific list of training topics, and the two areas listed are specifically required by the 1994 Amendments to the Head Start Act. With regard to 45 CFR 1304.52(k)(4), some commenters stated that it would be unrealistic to provide training to some governing bodies, particularly when they are school boards or university boards of regents. In response to these concerns, we clarified the language to require the provision of "\* \* \* training or orientation to Early Head Start and Head Start governing body members. Agencies must also provide orientation and ongoing training to Early Head Start or Head Start Policy Council and Policy Committee members \* \* \*." This change recognizes that, although training for governing bodies does not present a problem for most agencies, they may choose to provide a brief orientation as a substitute for training

when more comprehensive training is not feasible. On the other hand, we have made it clear that training for policy groups must occur on an ongoing basis in order to ensure that these groups are prepared to meet complex responsibilities as those responsibilities arise.

#### Section 1304.53 Facilities, Materials, and Equipment

Most of the comments on the Facilities, Materials and Equipment section expressed support for the proposed standards, as they promote excellence in facilities, materials, and equipment. The majority of suggested changes called for additional safety requirements to safeguard the health and well-being of children.

A number of commenters were concerned that the annual safety inspection of a facility's space, light, ventilation, heat, and other physical arrangements required in 45 CFR 1304.53(a)(10) was insufficient to ensure that facilities meet the health, safety, and developmental needs of children. In response, we have clarified that a safety inspection must be conducted "at least annually." We did not establish a more specific timetable for safety inspections, leaving it to the discretion of grantee and delegate agencies to determine the appropriate annual, monthly, weekly or daily inspection schedule for each of the 17 requisite safety checks of local facilities.

As a further response to comments requesting additional emphasis on safety issues, we amended 45 CFR 1304.53(a)(7) to require that "grantee and delegate agencies must provide for the maintenance, repair, safety, and security of all Early Head Start and Head Start facilities, materials, and equipment." We have also amended 45 CFR 1304.53(b)(1)(iii) to require that equipment, toys, materials and furniture owned or operated by the grantee or delegate agency must be "age-appropriate, safe, and supportive of the abilities and developmental level of each child served, with adaptations, if necessary, for children with disabilities." Further, we have reinstated, as 45 CFR 1304.53(b)(1)(vi), the existing standard that requires that equipment, toys, materials and furniture must be "Safe, durable and kept in good condition."

A few commenters requested standards on safe surfaces beneath play equipment, an issue that was not addressed either in the current standards for preschoolers or in the NPRM. In response, we have added a new 45 CFR 1304.53(a)(10)(x) requiring grantee and delegate agencies to ensure

that "the selection, layout, and maintenance of playground equipment and surfaces minimize the possibility of injury to children."

Commenters also requested the strengthening of 45 CFR 1304.53(a)(8), which requires grantee and delegate agencies to "\* \* \* provide a center-based environment free of toxins, such as cigarette smoke, pesticides, herbicides, and other air pollutants as well as soil and water contaminants." In response to these comments, we have amended the standard to include "lead" in the list of examples of toxins from which the center-based environment must be free; and have also specified that agencies must ensure that "\* \* \* no child is present during the spraying of pesticides or herbicides. Children must not return to the affected area until it is safe to do so." In addition, we intend to clarify in the Guidance that the spraying of herbicides and pesticides outside and inside centers poses risks to children and staff and should be minimized to the greatest extent possible.

Another set of comments sought clarification of the proposed standards addressing new safety issues related to services for infants and toddlers. In some cases, we have made minor changes to the language in the standards; in others, we intend to provide further clarification through Guidance. For example, we intend to provide best practice in the Guidance on the new 45 CFR 1304.53(a)(10)(xiv) regarding the precautions that grantees should take to avoid exposing infants and toddlers to E coli bacteria if they locate diapering areas within classrooms. The Guidance will also address requests for additional information on Sudden Infant Death Syndrome (SIDS) and on more general issues related to safe sleeping arrangements for infants and toddlers (45 CFR 1304.53(b)(3)).

A few commenters suggested that the standards include the requirement that all Early Head Start and Head Start facilities, materials and equipment must be accessible to children with disabilities, in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. This important requirement is found at 45 CFR 1304.53(a)(2), which refers grantee and delegate agencies to 45 CFR 1308.4 for specific access requirements for children with disabilities. Federal requirements for making services accessible in conformance with the Americans with Disabilities Act and 45 CFR Part 84, Nondiscrimination on the Basis of Handicap in Programs and Activities

Receiving or Benefiting from Federal Financial Assistance, are described in 45 CFR 1308.4(o)(4) as well as in the Guidance materials accompanying 45 CFR 1308.4(f)(3). Further information on appropriate furniture, equipment, and materials for children with disabilities is provided in 45 CFR 1308.4(f)(4) and 1308.4(o)(6).

Finally, a few commenters noted that additional funding would be needed to bring local facilities into compliance with the standards. However, no individual standard in 45 CFR 1304.53 was singled out as raising significant cost concerns.

#### *Subpart E—Implementation and Enforcement*

##### **Section 1304.60 Deficiencies and Quality Improvement Plans**

Many commenters were supportive of the section on compliance in the Program Performance Standards, stating that it will ensure that children and families receive quality services and that poorly performing grantee and delegate agencies will not be tolerated as Early Head Start or Head Start providers.

The NPRM described two different negative findings which could result from a review of a Head Start grantee: A determination that the grantee is out-of-compliance with one or more standards or other requirements; or, because of the scope and magnitude of the problem, that the grantee has one or more deficiencies. It also provided two different timeframes in which corrections were to be made, with grantees having up to 90 days to remedy areas of non-compliance and up to one year to correct deficiencies. Many commenters found these distinctions confusing and requested clarification of the terms "out-of-compliance" and "deficiency," stating that, as used in the NPRM, these terms are vague and overly broad. Others stated that the differences between the types of determinations that would result in a grantee being found to be out-of-compliance or to be deficient needed to be more clearly delineated.

We have made major changes in this Subpart of the final rule, both to address the concerns raised by commenters and to focus this section more directly on the new provisions at section 641A(d) of the Head Start Act, as amended, regarding the actions to be taken when a grantee is found to have one or more deficiencies.

Additionally, in response to questions raised regarding the wording of 45 CFR 1304.60(a) in the NPRM, we have also clarified that the requirements at 45 CFR

1304.60(a), as well as those at 45 CFR 1304.60(b)-(f) and 45 CFR 1304.61 as revised in the final rule, apply both to Early Head Start and to Head Start grantee agencies. The NPRM, at 45 CFR 1304.60(a) stated that "Head Start grantee and delegate agencies funded for indefinite periods must comply with the requirements of this part in accordance with the effective dates set forth in 45 CFR 1304.2." Commenters questioned whether this wording meant that Early Head Start grantees, which are funded for specific project periods, did not have to comply with the requirements of the Program Performance Standards. This was not our intent. Therefore, we deleted the reference to agencies funded for indefinite project periods in 45 CFR 1304.60(a) and also added the term "Early Head Start" at the beginning of the sentence ("Early Head Start and Head Start grantee and delegate agencies must \* \* \*"). We have further added the requirement that Early Head Start grantees will be given the same opportunity as Head Start grantees to remedy identified program deficiencies through, where appropriate, the use of a Quality Improvement Plan.

We have rearranged and revised the paragraphs in 45 CFR 1304.60 and 45 CFR 1304.61 in the NPRM in order to more clearly differentiate between a deficiency and an area of noncompliance as well as the actions that must be taken when a deficiency or an area of noncompliance is identified. As revised, 45 CFR 1304.60 in the final rule relates only to deficiencies, while 45 CFR 1304.61 focuses on areas of noncompliance. The wording of the standards in 45 CFR 1304.60 in the final rule closely parallels the language of the Head Start Act, and relates to the determination and official notification by a responsible HHS official regarding one or more deficiencies and the timeframe in which it is to be corrected (45 CFR 1304.60(b); the submission of a Quality Improvement Plan by the grantee specifying the actions to be taken to remedy each deficiency and the timeframe in which it will do so (45 CFR 1304.60(c); and the approval or disapproval by the responsible HHS official of the grantee's Quality Improvement Plan and the resubmission of the Plan, as required (45 CFR 1304.60(d) and (e)). The paragraph at 45 CFR 1304.60(f) provides that Early Head Start or Head Start grantees which fail to correct a deficiency, either immediately, if required, or within the timeframe specified in the approved Quality Improvement Plan, will be issued a letter of termination or denial

of refunding by the responsible HHS official.

The standard at 45 CFR 1304.60(f) also has been expanded to state that a "deficiency that is not timely corrected shall be a material failure of a grantee to comply with the terms and conditions of an award \* \* \*." This provision is part of the implementation of the requirement at Section 641A(d)(1)(C) of the Head Start Act, as amended, that the Secretary must initiate proceedings to terminate the designation of an agency as a Head Start grantee unless the grantee corrects the deficiency; it also is consistent with past agency interpretation that the failure to comply with any of the Program Performance Standards and other requirements constitutes a material breach of the terms of the grant. The language also further establishes that, since a deficiency, by its nature, materially impairs the accomplishment of program goals, the failure to correct a deficiency in a timely manner will constitute grounds for termination. Additionally, 45 CFR 1304.60(f) clarifies that Head Start grantees may appeal terminations and denials of refunding under 45 CFR part 1303, while Early Head Start grantees may not appeal under 45 CFR part 1303, but must appeal terminations and denials of refunding under 45 CFR part 74 and 45 CFR part 92.

We also have revised substantially the definition of "deficiency" at 45 CFR 1304.3(a)(5) in order to clarify the types of determinations which could result in a grantee being found deficient and which, therefore, would have to be addressed either immediately or under a Quality Improvement Plan. Our goal in revising this definition, and particularly in referring to a "failure to perform substantially" in 45 CFR 1304.3(a)(6)(i)(C), was to make it clear that a determination that a grantee is out-of-compliance with one or more requirements will not, in and of itself, constitute a deficiency. Rather, these areas of non-compliance must be of a level of significance that results in the failure of the grantee to substantially provide required services or to substantially implement required procedures. As used in the revised definition, the term "substantially" does not necessarily mean that a majority of the requirements are not being met but, rather, that a knowledgeable person reviewing the findings would determine that the grantee agency is not operating a quality program.

Additionally, the revised definition at 45 CFR 1304.3(a)(6)(iii) states that "Any other violation of Federal or State requirements, including, but not limited

to, the Head Start Act or one or more of the regulations under Parts 1301, 1304, 1305, 1306, or 1308 of this Title, and which the grantee has shown an unwillingness or inability to correct within the period specified by the responsible HHS official, of which the responsible HHS official has given the grantee written notice of pursuant to 45 CFR 1304.61" also constitutes a deficiency. The intent here is to underscore that grantees are also expected to correct all areas of noncompliance which have been identified, including those which do not need to be addressed under a Quality Improvement Plan; and, that, if the responsible HHS official determines that the grantee is unable or unwilling to do so within the specified timeframes, the area or areas in which the violations exist become deficiencies, which must then be corrected either immediately or under a Quality Improvement Plan.

We believe that the processes encompassed by 45 CFR 1304.60, as revised in the final rule, will be fully supportive of efforts to improve the quality of Early Head Start and Head Start programs. The requirement that grantees develop Quality Improvement Plans specifying the actions they will take to correct identified deficiencies and the timeframes within which they will do so will enable both agency and Federal staff to focus in a more comprehensive and holistic manner on the improvements that are needed and how they should be addressed.

Commenters also raised other questions related to 45 CFR 1304.60 and 45 CFR 1304.61 in the NPRM. A number of commenters questioned the requirement in 45 CFR 1304.61(d) that deficiencies must be corrected within a period not to exceed 12 months. Some felt that one year was too long, particularly if the deficiency reduced the quality of services being provided or affected the health and safety of children and staff. Others felt that the timeframes should be established on a case-by-case basis or that time periods longer than one year should be allowed, because many problems cannot be resolved within 12 months. A number of commenters also suggested that the timeframe within which a grantee agency must correct a deficiency should start on the date that the Quality Improvement Plan is approved by the responsible HHS official, rather than on the date of official notification of the deficiency. We did not make any changes with respect to the one-year timeframe within which a deficiency must be corrected or the date on which the one-year period begins, as both requirements are established by Section

641A(d)(2)(A)(ii) of the Head Start Act, as amended. In the final rule, these timeframe requirements appear in 45 CFR 1304.60(c). It should be noted, however, that a grantee can be required to correct a deficiency immediately or within less than a 12-month period. Deficiencies which endanger the health and safety of Early Head Start or Head Start children, families and staff, among others, would fall into this category.

Other commenters focused on the monitoring process, requesting that the On-Site Program Review Instrument (OSPRI) be revised to conform with the new Program Performance Standards and released simultaneously with them, or questioning why monitoring was not addressed in this section and who (Federal or peer reviewers) would be involved in the on-site reviews. We are currently conducting an intensive review of the monitoring process, and intend to ensure that it is fully consistent with the revised Program Performance Standards by the time that the standards become effective on January 1, 1998. We also intend to provide extensive training to Federal and peer reviewers on the revised standards. We will continue to conduct a full review of each grantee at least once every three years, with follow-up reviews being conducted as needed.

Finally, a number of commenters stated that additional resources, in the form of training and technical assistance as well as additional funding, would be required to remedy deficiencies to be addressed under Quality Improvement Plans. We did not change the language of this Subpart. As required by section 641A(d)(3) of the Head Start Act, as amended, training and technical assistance will be available in the development and implementation of Quality Improvement Plans. However, the primary financial resources which agencies must draw upon to correct deficiencies are the resources provided through their Early Head Start or Head Start grants.

#### Section 1304.61 Noncompliance

As revised in the final rule, 45 CFR 1304.61 relates to an area or areas, identified during a review of an Early Head Start or Head Start grantee, in which the grantee is found to be out-of-compliance with Federal or State requirements, including the Head Start Act and regulations, and which, while not of the scope or magnitude to constitute a deficiency, still require correction.

The standard in the final rule is designed to allow for greater flexibility and to reduce paperwork in dealing with areas of noncompliance than did

the processes described in 45 CFR 1304.60 (c) and (d) in the NPRM. Unlike the NPRM, which specified that all areas of noncompliance were to be corrected within a period not to exceed 90 days, the final rule does not establish a specific timeframe in which the corrections are to be made. Rather, the timeframe will be established by the responsible HHS official, based on the type of noncompliance and on his or her knowledge of the circumstances of a particular grantee. The definition of the term "noncompliance" (45 CFR 1304.3(a)(15) in the NPRM) has been deleted in the final rule because the definition is incorporated into the revised standard at 45 CFR 1304.61(a).

The standard at 45 CFR 1304.61(b) reiterates that the inability or unwillingness of a grantee to correct an area or areas of non-compliance within the timeframe specified by the responsible HHS official will result in the area or areas of non-compliance becoming a deficiency, to be corrected under the procedures established in 45 CFR 1304.60.

#### PART 1301—HEAD START GRANTS ADMINISTRATION

Many commenters applauded the addition of the section on personnel policies in 45 CFR 1301.31 to the Program Performance Standards, stating that it was greatly needed and well written. However, a number of other commenters raised concerns about changes from the current requirements that were proposed in the NPRM.

First, many commenters questioned the application of the personnel policies in 45 CFR 1301.31 to volunteers and consultants, since they are not considered employees of the agency. Some stated that consultants often have specific agreements with an agency that may or may not incorporate relevant sections from the agency's personnel policies. Many more commenters were concerned about having personnel policies apply to volunteers. Doing so could mean that volunteers would need a job description, a selection process, and a performance appraisal that would make the process of obtaining volunteers so complicated that people would be discouraged from volunteering. By far the greatest number of critical comments related to the need for criminal record checks for volunteers (45 CFR 1301.31(b)(1)(iii)). While concerns were raised related to conducting such checks for all volunteers, there were special concerns regarding conducting checks for parent volunteers. Commenters were concerned about the impact that this requirement would have on their

relationship with parents, and were also concerned that parents would be discouraged from volunteering. Another concern was the cost associated with obtaining criminal record checks for all volunteers. To respond to these concerns, we have eliminated volunteers and consultants from the requirements in 45 CFR 1301.31. These personnel policies will only apply to staff.

The second concern raised by several commenters related to the inclusion of job descriptions in personnel policies (45 CFR 1301.31(a)). Commenters stressed that, while job descriptions should be governed by personnel policies, they should be separate. One reason given by several commenters was that, given the growing number of staff positions in Head Start, it would be cumbersome to submit minor revisions in job descriptions to the Policy Council for its approval each time revisions were made. While we considered these comments, we retained the original language, since we believe that it is appropriate to link position descriptions to personnel policies. However, unless there are significant changes made or new positions added, we do not believe that it is necessary for Policy Councils or Policy Committees to approve minor changes to position descriptions.

Third, commenters suggested that, instead of conducting a criminal record check before an employee is hired, we permit programs to hire staff for a probationary period while the check is being conducted since, in many States, the criminal record check can take several months to complete. We understand that the timing of securing criminal record checks is sometimes beyond the control of an Early Head Start or Head Start agency. To address this concern we added a sentence to 45 CFR 1301.31(b)(1)(iii) that reads, "If it is not feasible to obtain a criminal record check prior to hiring, an employee must not be considered permanent until such a check has been completed."

Other commenters suggested wording that would help clarify the intent of this section. For example, one commenter suggested that, in order to make this section consistent with Appendix A of 45 CFR 1304.50, we should specifically state that Policy Committees or Policy Councils must approve the personnel policies of delegate agencies in 45 CFR 1301.31(a). Others suggested that we use the term "salary range" within job descriptions in 45 CFR 1301.31(a)(1) instead of "salary." We agree with these comments, and have made these changes.

#### PART 1303—APPEAL PROCEDURES FOR HEAD START GRANTEEES AND CURRENT OR PROSPECTIVE DELEGATE AGENCIES

Several comments were received on part 1303 which expressed concern about the requirement that financial assistance be terminated or refunded be denied due to one or more deficiencies. The termination of financial assistance or the denial of refunding due to one or more deficiencies is required by section 641 of the Head Start Act, as amended.

For clarification purposes, we made a technical change to the NPRM text for § 1303.14(b)(4) to provide that one of the reasons for termination of financial assistance to a grantee is the failure to timely correct one or more deficiencies as defined in 45 CFR part 1304. We deleted the proposed revision to § 1303.15(c) because the clarification to § 1303.14(b)(4) negates the need to revise the current § 1303.15(c).

#### PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT, AND ATTENDANCE IN HEAD START

Commenters pointed out that the term "Community Needs Assessment" focuses too heavily on the deficits in a community, rather than on its strengths. We agree, and have changed the title of this process to "Community Assessment" wherever the term "Community Need Assessment" appears in part 1305. No other changes were made to the NPRM language for part 1305.

#### PART 1306—HEAD START STAFFING REQUIREMENTS AND PROGRAM OPTIONS

The comments received on the sections in this part as set forth in the NPRM raised concerns that have been addressed earlier in this Preamble such as the requirement for CDA training, the need to integrate 45 CFR parts 1305, 1306, and 1308 into 45 CFR Part 1304, and the need for guidance on class size and home visitor caseloads. Subsequently, no changes were needed to this part.

#### PART 1308—HEAD START PROGRAM PERFORMANCE STANDARDS ON SERVICES FOR CHILDREN WITH DISABILITIES

The comments received on part 1308 basically requested the integration of part 1308 into the Program Performance Standards. The reasons for not integrating part 1308 have been discussed earlier in this Preamble.

We have reworded the amendment to 45 CFR 1308.6(b)(1) to reflect the wording in 45 CFR 1304.20.

## VII. Impact Analysis

### *Executive Order 12866*

Executive Order 12866 requires that regulations be drafted to ensure that there is consistency with the priorities and principles set forth in this Executive Order. The Department has determined that this significant rule, which was reviewed by OMB, is consistent with these priorities and principles. This final rule implements the statutory authority to promulgate regulations for Head Start Program Performance Standards. The Head Start Act, as amended, requires the addition of new performance standards in the following areas: administrative and financial management, transition activities, family literacy, a family needs assessment and consultation process, and standards for programs serving low-income pregnant women and families with infants and toddlers. Many of the new standards in this final rule are directly related to these specific legislative mandates. Congress made no additional appropriation to fund these new requirements, however, and so any funds spent toward the improvement of services, facilities, infrastructures, or other purposes related to this regulation are funds that would have been otherwise spent by the program or other programs from the same appropriation amount. In addition, new standards have been added in the areas of child health and developmental services, education and early childhood development in home-based settings, health emergency and safety procedures, and family and community partnerships which are responsive to the legislative mandate and to Advisory Committee recommendations to improve the quality of the Head Start program and to establish the Early Head Start program. We believe that this final rule is focused in ways that encourage maximum cost-effectiveness in agency spending decisions.

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (Pub. L. 96-354) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses.

For each rule with a "significant economic impact on a substantial number of small entities," an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. While these regulations would affect small entities, the Secretary certifies that this rule will not have a

significant impact on substantial numbers of small entities for the reasons noted below.

All grantee and delegate agencies are currently required to meet a large group of Head Start Program Performance Standards. In keeping with the Head Start Act, as amended, the new standards have been developed in consultation with individuals who have experience operating Head Start programs. Further, the requirements that are more stringent with regard to paperwork burden than the current requirements are based on the new legislative mandates contained in the 1994 Head Start reauthorization, such as the requirement for new infant and toddler standards, the need to respond to changes over time in the kinds of services that the Head Start population requires, the need to reflect best practices in the field of early childhood development, and the need to promote Head Start program quality and to facilitate Head Start expansion. Finally, we believe that meeting these requirements will not be burdensome to grantee and delegate agencies because we are not requiring compliance until January 1, 1998. We also believe that, as grantee and delegate agencies implement these requirements, there will be no ongoing burden.

### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. No OMB control numbers have yet been assigned to the information collection requirements in this final rule. We have submitted the information collection package to OMB for review. When OMB approves the information collection package, we will publish the OMB control numbers in the Federal Register.

The sections that contain information collection are: Child health and developmental services (45 CFR 1304.20(a)(1), (c)(5), and (d)); child health and safety (45 CFR 1304.22(c)); child nutrition (45 CFR 1304.23(a)(1)); family partnerships (45 CFR 1304.40(a)(2)); community partnerships (45 CFR 1304.41(a)(1)); program governance (45 CFR 1304.50(f), (g) and (h)); management systems and procedures (45 CFR 1304.51(a)(1) (i)-(iii), (2), and (i)(1)); human resources management (45 CFR 1304.52(j)(2)); deficiencies and quality improvement plans (45 CFR 1304.60 (b) and (c)); criminal record checks and declarations (45 CFR 1301.31(b)(1)(iii) and (b)(2)); and community assessment (45 CFR 1305.3 (b) and (d)).

Relatively few of the nearly 15,000 comments received on the NPRM addressed the collection of information requirements proposed in the NPRM. However, some comments were received concerning information collection requirements contained in specific sections of the NPRM.

We received a few comments on the information collection requirements concerning child health and developmental assessments, which are required in 45 CFR 1304.20(a). These comments concerned the gathering of health and developmental assessments information for each child. Changes have been made in the standards to emphasize that Early Head Start and Head Start grantee and delegate agencies should assist parents in connecting to a "medical home" (45 CFR 1304.20(a)(1)(i)) and that they should obtain information as to whether a child is up-to-date on a schedule of age-appropriate preventive and primary health care from a health care professional rather than gathering the information themselves (45 CFR 1304.20(a)(1)(ii)).

Comments also were received on the information collection requirement that grantee and delegate agencies have "written documentation of their efforts to access other available funds for medical and dental services" (45 CFR 1304.22(a)(5) in the NPRM; 45 CFR 1304.20(c)(5) in the final rule). Commenters stated that it is sometimes difficult to obtain written documentation on why agencies refuse to pay for or will not provide services. It was not the intent of the standard to have other agencies provide this information, but, rather, to have Early Head Start and Head Start agencies create a record of their efforts to access other sources of funding. Thus, we have reworded the standard to require agencies to provide "written documentation of their efforts to access other available sources of funding" (45 CFR 1304.20(c)(5)).

We received several comments on the information collection requirements to complete nutritional assessments and to record information on family eating patterns and community nutritional issues which are required in 45 CFR 1304.23(a). Some concern was expressed about the level of paperwork that would be required to document the conduct of nutritional assessments with families. In response, we have clarified 45 CFR 1304.23(a)(1) so that, in identifying a child's nutritional needs, staff must take into account "any relevant nutrition-related assessment data." This will increase the flexibility in using pre-existing records, rather

than conducting special nutritional assessments.

Some commenters stated that developing the Family Partnership Agreements required in 45 CFR 1304.40(a)(2) might increase the amount of time necessary for working with families. This agreement process is expected to result in better outcomes than the process required in the current standards. Therefore, we have retained the standard.

We received a few comments about the information collection requirements regarding the building of partnerships in the community in 45 CFR 1304.41. Commenters supported the partnership building process, but were unsure about how to document it. In response, language was added to 45 CFR 1304.41(a)(1) to state that agencies should document "the level of effort undertaken to establish community partnerships." This requirement addresses concerns raised by commenters about situations where community planning efforts are not supported by other community groups, and is designed to give agencies a chance to document their ongoing efforts, which may not always be successful.

We received only one comment on the information collection requirements in Program Governance (45 CFR 1304.50). This comment expressed concern about the paperwork associated with reimbursing parents serving on policy making bodies (45 CFR 1304.50(f)). No change was made in the standard, since records are required to support such reimbursements.

We received only a few comments on the information collection requirements placed on grantee and delegate agencies regarding Management Systems and Procedures. These commenters stated that the documentation related to program planning might be burdensome (45 CFR 1304.51(a)(2)). Although we recognize that there may be some burden involved, we made no changes to the standard because we feel that the documentation required is important to program quality.

We received several comments on the information collection requirements in 45 CFR 1304.52, Human Resources Management. Commenters stated that we significantly increased the number of individuals who would need a tuberculosis screening, and that it is often difficult to obtain the screening or to document that it is unnecessary (45 CFR 1304.52(j)(2)). In response, we have clarified that only regular volunteers must be screened in accordance with State, Tribal or local laws or when

recommended by the local Health Services Advisory Committee.

We received a few comments about the information collection requirements related to deficiencies and quality improvement plans (45 CFR 1304.60 and 45 CFR 1304.61 in the NPRM). A few commenters stated that specifics should be provided regarding the documentation that can be requested by officials of the U.S. Department of Health and Human Services (45 CFR 1304.60(b)). This level of specificity cannot be included in the standard, because the documentation that will be required will relate to the specific deficiency that is identified.

We received no information collection comments on several sections: 45 CFR 1304.21, Education and Early Childhood Development; 45 CFR 1304.22, Child Health Safety; 45 CFR 1304.24, Child Mental Health; 45 CFR 1304.53, Facilities, Materials, and Equipment; and 45 CFR 1301.31, Personnel Policies.

In this final rule, we are including the OMB approval number for 45 CFR 1305.3(b) and (d) on community assessments at the end of the section which has an expiration date of September 30, 1998.

We are soliciting comments on 45 CFR 1301.31 (b)(1)(iii) and (b)(2) on criminal record checks and declarations, for a 60 day period. We inadvertently did not solicit comment on this section in the NPRM. However, this requirement is not new as it is now in current Head Start regulations. Written comments to OMB on this section should be sent to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, Attn: Ms Wendy Taylor.

#### List of Subjects

#### 45 CFR Part 1301

Administrative practice and procedure, Education of the disadvantaged, Grant programs/social programs, Selection of grantees.

#### 45 CFR Part 1303

Administrative practice and procedure, Education of the disadvantaged, Grant programs/social programs, Reporting and recordkeeping requirements.

#### 45 CFR Part 1304

Dental health, Education of the disadvantaged, Grant programs/social programs, Health care, Mental health programs, Nutrition, Reporting and recordkeeping requirements.

#### 45 CFR Part 1305

Education of the disadvantaged, Grant programs/social programs, Individuals with disabilities.

#### 45 CFR Part 1306

Education of the disadvantaged, Grant programs/social programs.

#### 45 CFR Part 1308

Education of the disadvantaged, Grant programs/social programs, Health care, Individuals with disabilities, Nutrition, Reporting and recordkeeping.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 17, 1996.

Mary Jo Bane,

*Assistant Secretary for Children and Families.*

Approved: September 19, 1996.

Donna E. Shalala,  
*Secretary.*

For the reasons set forth in the preamble, 45 CFR chapter XIII, subchapter B is amended to read as follows:

1. Part 1304—is revised to read as follows:

### **PART 1304—PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS BY GRANTEE AND DELEGATE AGENCIES**

#### **Subpart A—General**

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Authority: 42 U.S.C. 9801 *et seq.*

**Subpart A—General****§ 1304.1 Purpose and scope.**

This part describes regulations implementing sections 641A, 644(a) and (c), and 645A(h) of the Head Start Act, as amended (42 U.S.C. 9801 *et seq.*). Section 641A, paragraph (a)(3)(C) directs the Secretary of Health and Human Services to review and revise, as necessary, the Head Start Program Performance Standards in effect under prior law. This paragraph further provides that any revisions should not result in an elimination or reduction of requirements regarding the scope or types of Head Start services to a level below that of the requirements in effect on November 2, 1978. Section 641A(a) directs the Secretary to issue regulations establishing performance standards and minimum requirements with respect to health, education, parent involvement, nutrition, social, transition, and other Head Start services as well as administrative and financial management, facilities, and other appropriate program areas. Sections 644(a) and (c) require the issuance of regulations setting standards for the organization, management, and administration of Head Start programs. Section 645A(h) requires that the Secretary develop and publish performance standards for the newly authorized program for low-income pregnant women and families with infants and toddlers, entitled "Early Head Start." The following regulations respond to these provisions in the Head Start Act, as amended, for new or revised Head Start Program Performance Standards. These new regulations define standards and minimum requirements for the entire range of Early Head Start and Head Start services, including those specified in the authorizing legislation. They are applicable to both Head Start and Early Head Start programs, with the exceptions noted, and are to be used in conjunction with the regulations at 45 CFR parts 1301, 1302, 1303, 1305, 1306, and 1308.

**§ 1304.2 Effective date.**

Early Head Start and Head Start grantee and delegate agencies must comply with these requirements on January 1, 1998. Nothing in this part prohibits grantee or delegate agencies

from voluntarily complying with these regulations prior to the effective date.

**§ 1304.3 Definitions.**

- (a) As used in this part:
- (1) *Assessment* means the ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility to identify:
    - (i) The child's unique strengths and needs and the services appropriate to meet those needs; and
    - (ii) The resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their child.
  - (2) *Children with disabilities* means, for children ages 3 to 5, those with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple disabilities, and who, by reason thereof, need special education and related services. The term "children with disabilities" for children aged 3 to 5, inclusive, may, at a State's discretion, include children experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, need special education and related services. Infants and toddlers with disabilities are those from birth to three years, as identified under the Part H Program (Individuals with Disabilities Education Act) in their State.
  - (3) *Collaboration and collaborative relationships*:
    - (i) With other agencies, means planning and working with them in order to improve, share and augment services, staff, information and funds; and
    - (ii) With parents, means working in partnership with them.
  - (4) *Contagious* means capable of being transmitted from one person to another.
  - (5) *Curriculum* means a written plan that includes:
    - (i) The goals for children's development and learning;
    - (ii) The experiences through which they will achieve these goals;
    - (iii) What staff and parents do to help children achieve these goals; and
    - (iv) The materials needed to support the implementation of the curriculum.

The curriculum is consistent with the Head Start Program Performance Standards and is based on sound child development principles about how children grow and learn.

(6) *Deficiency* means:

(i) An area or areas of performance in which an Early Head Start or Head Start grantee agency is not in compliance with State or Federal requirements, including but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title and which involves:

(A) A threat to the health, safety, or civil rights of children or staff;

(B) A denial to parents of the exercise of their full roles and responsibilities related to program governance;

(C) A failure to perform substantially the requirements related to Early Childhood Development and Health Services, Family and Community Partnerships, or Program Design and Management; or

(D) The misuse of Head Start grant funds.

(ii) The loss of legal status or financial viability, as defined in part 1302 of this title, loss of permits, debarment from receiving Federal grants or contracts or the improper use of Federal funds; or

(iii) Any other violation of Federal or State requirements including, but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title, and which the grantee has shown an unwillingness or inability to correct within the period specified by the responsible HHS official, of which the responsible HHS official has given the grantee written notice of pursuant to section 1304.61.

(7) *Developmentally appropriate* means any behavior or experience that is appropriate for the age span of the children and is implemented with attention to the different needs, interests, and developmental levels and cultural backgrounds of individual children.

(8) *Early Head Start* program means a program that provides low-income pregnant women and families with children from birth to age 3 with family-centered services that facilitate child development, support parental roles, and promote self-sufficiency.

(9) *Family* means for the purposes of the regulations in this part all persons:

(i) Living in the same household who are:

(A) Supported by the income of the parent(s) or guardian(s) of the child enrolling or participating in the program; or

(B) Related to the child by blood, marriage, or adoption; or

(ii) Related to the child enrolling or participating in the program as parents or siblings, by blood, marriage, or adoption.

(10) *Guardian* means a person legally responsible for a child.

(11) *Health* means medical, dental, and mental well-being.

(12) *Home visitor* means the staff member in the home-based program option assigned to work with parents to provide comprehensive services to children and their families through home visits and group socialization activities.

(13) *Individualized Family Service Plan (IFSP)* means a written plan for providing early intervention services to a child eligible under Part H of the Individuals with Disabilities Education Act (IDEA). (See 34 CFR 303.340–303.346 for regulations concerning IFSPs.)

(14) *Minimum requirements* means that each Early Head Start and Head Start grantee must demonstrate a level of compliance with Federal and State requirements such that no deficiency, as defined in this part, exists in its program.

(15) *Policy group* means the formal group of parents and community representatives required to be established by the agency to assist in decisions about the planning and operation of the program.

(16) *Program attendance* means the actual presence and participation in the program of a child enrolled in an Early Head Start or Head Start program.

(17) *Referral* means directing an Early Head Start or Head Start child or family member(s) to an appropriate source or resource for help, treatment or information.

(18) *Staff* means paid adults who have responsibilities related to children and their families who are enrolled in Early Head Start or Head Start programs.

(19) *Teacher* means an adult who has direct responsibility for the care and development of children from birth to 5 years of age in a center-based setting.

(20) *Volunteer* means an unpaid person who is trained to assist in implementing ongoing program activities on a regular basis under the supervision of a staff person in areas such as health, education, transportation, nutrition, and management.

(b) In addition to the definitions in this section, the definitions as set forth in 45 CFR 1301.2, 1302.2, 1303.2, 1305.2, 1306.3, and 1308.3 also apply, as used in this part.

## Subpart B—Early Childhood Development and Health Services

### § 1304.20 Child health and developmental services.

#### (a) *Determining child health status.*

(1) In collaboration with the parents and as quickly as possible, but no later than 90 calendar days (with the exception noted in paragraph (a)(2) of this section) from the child's entry into the program (for the purposes of 45 CFR 1304.20(a)(1), 45 CFR 1304.20(a)(2), and 45 CFR 1304.20(b)(1), "entry" means the first day that Early Head Start or Head Start services are provided to the child), grantee and delegate agencies must:

(i) Make a determination as to whether or not each child has an ongoing source of continuous, accessible health care. If a child does not have a source of ongoing health care, grantee and delegate agencies must assist the parents in accessing a source of care;

(ii) Obtain from a health care professional a determination as to whether the child is up-to-date on a schedule of age appropriate preventive and primary health care which includes medical, dental and mental health. Such a schedule must incorporate the requirements for a schedule of well child care utilized by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the State in which they operate, and the latest immunization recommendations issued by the Centers for Disease Control and Prevention, as well as any additional recommendations from the local Health Services Advisory Committee that are based on prevalent community health problems:

(A) For children who are not up-to-date on an age-appropriate schedule of well child care, grantee and delegate agencies must assist parents in making the necessary arrangements to bring the child up-to-date;

(B) For children who are up-to-date on an age-appropriate schedule of well child care, grantee and delegate agencies must ensure that they continue to follow the recommended schedule of well child care; and

(C) Grantee and delegate agencies must establish procedures to track the provision of health care services.

(iii) Obtain or arrange further diagnostic testing, examination, and treatment by an appropriate licensed or certified professional for each child with an observable, known or suspected health or developmental problem; and

(iv) Develop and implement a follow-up plan for any condition identified in

45 CFR 1304.20(a)(1)(ii) and (iii) so that any needed treatment has begun.

(2) Grantee and delegate agencies operating programs of shorter durations (90 days or less) must complete the above processes and those in 45 CFR 1304.20(b)(1) within 30 calendar days from the child's entry into the program.

(b) *Developmental, sensory, and behavioral screening.* (1) In collaboration with each child's parent, and within 45 calendar days of the child's entry into the program, grantee and delegate agencies must perform or obtain linguistically and age appropriate developmental, sensory and behavioral screenings of motor, language, social, cognitive, perceptual, and emotional skills (see 45 CFR 1308.6(b)(3) for additional information). To the greatest extent possible, these screenings must be sensitive to the child's cultural background.

(2) Grantee and delegate agencies must obtain direct guidance from a mental health or child development professional on how to use the findings to address identified needs.

(3) Grantee and delegate agencies must utilize multiple sources of information on all aspects of each child's development and behavior, including input from family members, teachers, and other relevant staff who are familiar with the child's typical behavior.

(c) *Extended follow-up and treatment.* (1) Grantee and delegate agencies must establish a system of ongoing communication with the parents of children with identified health needs to facilitate the implementation of the follow-up plan.

(2) Grantee and delegate agencies must provide assistance to the parents, as needed, to enable them to learn how to obtain any prescribed medications, aids or equipment for medical and dental conditions.

(3) Dental follow-up and treatment must include:

(i) Fluoride supplements and topical fluoride treatments as recommended by dental professionals in communities where a lack of adequate fluoride levels has been determined or for every child with moderate to severe tooth decay; and

(ii) Other necessary preventive measures and further dental treatment as recommended by the dental professional.

(4) Grantee and delegate agencies must assist with the provision of related services addressing health concerns in accordance with the Individualized Education Program and the Individualized Family Service Plan (IFSP).

(5) Early Head Start and Head Start funds may be used for professional medical and dental services when no other source of funding is available. When Early Head Start or Head Start funds are used for such services, grantee and delegate agencies must have written documentation of their efforts to access other available sources of funding.

(d) *Ongoing care.* In addition to assuring children's participation in a schedule of well child care, as described in § 1304.20(a) of this part, grantee and delegate agencies must implement ongoing procedures by which Early Head Start and Head Start staff can identify any new or recurring medical, dental, or developmental concerns so that they may quickly make appropriate referrals. These procedures must include: periodic observations and recordings, as appropriate, of individual children's developmental progress, changes in physical appearance (e.g., signs of injury or illness) and emotional and behavioral patterns. In addition, these procedures must include observations from parents and staff.

(e) *Involving parents.* In conducting the process, as described in §§ 1304.20 (a), (b), and (c), and in making all possible efforts to ensure that each child is enrolled in and receiving appropriate health care services, grantee and delegate agencies must:

(1) Consult with parents immediately when child health or developmental problems are suspected or identified;

(2) Familiarize parents with the use of and rationale for all health and developmental procedures administered through the program or by contract or agreement, and obtain advance parent or guardian authorization for such procedures. Grantee and delegate agencies also must ensure that the results of diagnostic and treatment procedures and ongoing care are shared with and understood by the parents;

(3) Talk with parents about how to familiarize their children in a developmentally appropriate way and in advance about all of the procedures they will receive while enrolled in the program;

(4) Assist parents in accordance with 45 CFR 1304.40(f)(2) (i) and (ii) to enroll and participate in a system of ongoing family health care and encourage parents to be active partners in their children's health care process; and

(5) If a parent or other legally responsible adult refuses to give authorization for health services, grantee and delegate agencies must maintain written documentation of the refusal.

(f) *Individualization of the program.*

(1) Grantee and delegate agencies must

use the information from the developmental, sensory, and behavioral screenings, the ongoing observations, medical and dental evaluations and treatments, and insights from the child's parents to help staff and parents determine how the program can best respond to each child's individual characteristics, strengths and needs.

(2) To support individualization for children with disabilities in their programs, grantee and delegate agencies must assure that:

(i) Services for infants and toddlers with disabilities and their families support the attainment of the expected outcomes contained in the Individualized Family Service Plan (IFSP) for children identified under the infants and toddlers with disabilities program (Part H) of the Individuals with Disabilities Education Act, as implemented by their State or Tribal government;

(ii) Enrolled families with infants and toddlers suspected of having a disability are promptly referred to the local early intervention agency designated by the State Part H plan to coordinate any needed evaluations, determine eligibility for Part H services, and coordinate the development of an IFSP for children determined to be eligible under the guidelines of that State's program. Grantee and delegate agencies must support parent participation in the evaluation and IFSP development process for infants and toddlers enrolled in their program;

(iii) They participate in and support efforts for a smooth and effective transition for children who, at age three, will need to be considered for services for preschool age children with disabilities; and

(iv) They participate in the development and implementation of the Individualized Education Program (IEP) for preschool age children with disabilities, consistent with the requirements of 45 CFR 1308.19.

#### **§ 1304.21 Education and early childhood development.**

(a) *Child development and education approach for all children.* (1) In order to help children gain the skills and confidence necessary to be prepared to succeed in their present environment and with later responsibilities in school and life, grantee and delegate agencies' approach to child development and education must:

(i) Be developmentally and linguistically appropriate, recognizing that children have individual rates of development as well as individual interests, temperaments, languages,

cultural backgrounds, and learning styles;

(ii) Be inclusive of children with disabilities, consistent with their Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP) (see 45 CFR 1308.19);

(iii) Provide an environment of acceptance that supports and respects gender, culture, language, ethnicity and family composition;

(iv) Provide a balanced daily program of child-initiated and adult-directed activities, including individual and small group activities; and

(v) Allow and enable children to independently use toilet facilities when it is developmentally appropriate and when efforts to encourage toilet training are supported by the parents.

(2) Parents must be:

(i) Invited to become integrally involved in the development of the program's curriculum and approach to child development and education;

(ii) Provided opportunities to increase their child observation skills and to share assessments with staff that will help plan the learning experiences; and

(iii) Encouraged to participate in staff-parent conferences and home visits to discuss their child's development and education (see 45 CFR 1304.40(e)(4) and 45 CFR 1304.40(i)(2)).

(3) Grantee and delegate agencies must support social and emotional development by:

(i) Encouraging development which enhances each child's strengths by:

(A) Building trust;

(B) Fostering independence;

(C) Encouraging self-control by setting clear, consistent limits, and having realistic expectations;

(D) Encouraging respect for the feelings and rights of others; and

(E) Supporting and respecting the home language, culture, and family composition of each child in ways that support the child's health and well-being; and

(ii) Planning for routines and transitions so that they occur in a timely, predictable and unrushed manner according to each child's needs.

(4) Grantee and delegate agencies must provide for the development of each child's cognitive and language skills by:

(i) Supporting each child's learning, using various strategies including experimentation, inquiry, observation, play and exploration;

(ii) Ensuring opportunities for creative self-expression through activities such as art, music, movement, and dialogue;

(iii) Promoting interaction and language use among children and between children and adults; and

(iv) Supporting emerging literacy and numeracy development through materials and activities according to the developmental level of each child.

(5) In center-based settings, grantee and delegate agencies must promote each child's physical development by:

(i) Providing sufficient time, indoor and outdoor space, equipment, materials and adult guidance for active play and movement that support the development of gross motor skills;

(ii) Providing appropriate time, space, equipment, materials and adult guidance for the development of fine motor skills according to each child's developmental level; and

(iii) Providing an appropriate environment and adult guidance for the participation of children with special needs.

(6) In home-based settings, grantee and delegate agencies must encourage parents to appreciate the importance of physical development, provide opportunities for children's outdoor and indoor active play, and guide children in the safe use of equipment and materials.

(b) *Child development and education approach for infants and toddlers.* (1) Grantee and delegate agencies' program of services for infants and toddlers must encourage (see 45 CFR 1304.3(a)(5)):

(i) The development of secure relationships in out-of-home care settings for infants and toddlers by having a limited number of consistent teachers over an extended period of time. Teachers must demonstrate an understanding of the child's family culture and, whenever possible, speak the child's language (see 45 CFR 1304.52(g)(4));

(ii) Trust and emotional security so that each child can explore the environment according to his or her developmental level; and

(iii) Opportunities for each child to explore a variety of sensory and motor experiences with support and stimulation from teachers and family members.

(2) Grantee and delegate agencies must support the social and emotional development of infants and toddlers by promoting an environment that:

(i) Encourages the development of self-awareness, autonomy, and self-expression; and

(ii) Supports the emerging communication skills of infants and toddlers by providing daily opportunities for each child to interact with others and to express himself or herself freely.

(3) Grantee and delegate agencies must promote the physical development of infants and toddlers by:

(i) Supporting the development of the physical skills of infants and toddlers including gross motor skills, such as grasping, pulling, pushing, crawling, walking, and climbing; and

(ii) Creating opportunities for fine motor development that encourage the control and coordination of small, specialized motions, using the eyes, mouth, hands, and feet.

(c) *Child development and education approach for preschoolers.* (1) Grantee and delegate agencies, in collaboration with the parents, must implement a curriculum (see 45 CFR 1304.3(a)(5)) that:

(i) Supports each child's individual pattern of development and learning;

(ii) Provides for the development of cognitive skills by encouraging each child to organize his or her experiences, to understand concepts, and to develop age appropriate literacy, numeracy, reasoning, problem solving and decision-making skills which form a foundation for school readiness and later school success;

(iii) Integrates all educational aspects of the health, nutrition, and mental health services into program activities;

(iv) Ensures that the program environment helps children develop emotional security and facility in social relationships;

(v) Enhances each child's understanding of self as an individual and as a member of a group;

(vi) Provides each child with opportunities for success to help develop feelings of competence, self-esteem, and positive attitudes toward learning; and

(vii) Provides individual and small group experiences both indoors and outdoors.

(2) Staff must use a variety of strategies to promote and support children's learning and developmental progress based on the observations and ongoing assessment of each child (see 45 CFR 1304.20(b), 1304.20(d), and 1304.20(e)).

#### **§ 1304.22 Child health and safety.**

(a) *Health emergency procedures.* Grantee and delegate agencies operating center-based programs must establish and implement policies and procedures to respond to medical and dental health emergencies with which all staff are familiar and trained. At a minimum, these policies and procedures must include:

(1) Posted policies and plans of action for emergencies that require rapid response on the part of staff (e.g., a child choking) or immediate medical or dental attention;

(2) Posted locations and telephone numbers of emergency response

systems. Up-to-date family contact information and authorization for emergency care for each child must be readily available;

(3) Posted emergency evacuation routes and other safety procedures for emergencies (e.g., fire or weather-related) which are practiced regularly (see 45 CFR 1304.53 for additional information);

(4) Methods of notifying parents in the event of an emergency involving their child; and

(5) Established methods for handling cases of suspected or known child abuse and neglect that are in compliance with applicable Federal, State, or Tribal laws.

(b) *Conditions of short-term exclusion and admittance.* (1) Grantee and delegate agencies must temporarily exclude a child with a short-term injury or an acute or short-term contagious illness, that cannot be readily accommodated, from program participation in center-based activities or group experiences, but only for that generally short-term period when keeping the child in care poses a significant risk to the health or safety of the child or anyone in contact with the child.

(2) Grantee and delegate agencies must not deny program admission to any child, nor exclude any enrolled child from program participation for a long-term period, solely on the basis of his or her health care needs or medication requirements unless keeping the child in care poses a significant risk to the health or safety of the child or anyone in contact with the child and the risk cannot be eliminated or reduced to an acceptable level through reasonable modifications in the grantee or delegate agency's policies, practices or procedures or by providing appropriate auxiliary aids which would enable the child to participate without fundamentally altering the nature of the program.

(3) Grantee and delegate agencies must request that parents inform them of any health or safety needs of the child that the program may be required to address. Programs must share information, as necessary, with appropriate staff regarding accommodations needed in accordance with the program's confidentiality policy.

(c) *Medication administration.* Grantee and delegate agencies must establish and maintain written procedures regarding the administration, handling, and storage of medication for every child. Grantee and delegate agencies may modify these procedures as necessary to satisfy State or Tribal laws, but only where such

laws are consistent with Federal laws. The procedures must include:

(1) Labeling and storing, under lock and key, and refrigerating, if necessary, all medications, including those required for staff and volunteers;

(2) Designating a trained staff member(s) or school nurse to administer, handle and store child medications;

(3) Obtaining physicians' instructions and written parent or guardian authorizations for all medications administered by staff;

(4) Maintaining an individual record of all medications dispensed, and reviewing the record regularly with the child's parents;

(5) Recording changes in a child's behavior that have implications for drug dosage or type, and assisting parents in communicating with their physician regarding the effect of the medication on the child; and

(6) Ensuring that appropriate staff members can demonstrate proper techniques for administering, handling, and storing medication, including the use of any necessary equipment to administer medication.

(d) *Injury prevention.* Grantee and delegate agencies must:

(1) Ensure that staff and volunteers can demonstrate safety practices; and

(2) Foster safety awareness among children and parents by incorporating it into child and parent activities.

(e) *Hygiene.* (1) Staff, volunteers, and children must wash their hands with soap and running water at least at the following times:

(i) After diapering or toilet use;

(ii) Before food preparation, handling, consumption, or any other food-related activity (e.g., setting the table);

(iii) Whenever hands are contaminated with blood or other bodily fluids; and

(iv) After handling pets or other animals.

(2) Staff and volunteers must also wash their hands with soap and running water:

(i) Before and after giving medications;

(ii) Before and after treating or bandaging a wound (nonporous gloves should be worn if there is contact with blood or blood-containing body fluids); and

(iii) After assisting a child with toilet use.

(3) Nonporous (e.g., latex) gloves must be worn by staff when they are in contact with spills of blood or other visibly bloody bodily fluids.

(4) Spills of bodily fluids (e.g., urine, feces, blood, saliva, nasal discharge, eye discharge or any fluid discharge) must

be cleaned and disinfected immediately in keeping with professionally established guidelines (e.g., standards of the Occupational Safety Health Administration, U.S. Department of Labor). Any tools and equipment used to clean spills of bodily fluids must be cleaned and disinfected immediately. Other blood-contaminated materials must be disposed of in a plastic bag with a secure tie.

(5) Grantee and delegate agencies must adopt sanitation and hygiene procedures for diapering that adequately protect the health and safety of children served by the program and staff. Grantee and delegate agencies must ensure that staff properly conduct these procedures.

(6) Potties that are utilized in a center-based program must be emptied into the toilet and cleaned and disinfected after each use in a utility sink used for this purpose.

(7) Grantee and delegate agencies operating programs for infants and toddlers must space cribs and cots at least three feet apart to avoid spreading contagious illness and to allow for easy access to each child.

(f) *First aid kits.* (1) Readily available, well-supplied first aid kits appropriate for the ages served and the program size must be maintained at each facility and available on outings away from the site. Each kit must be accessible to staff members at all times, but must be kept out of the reach of children.

(2) First aid kits must be restocked after use, and an inventory must be conducted at regular intervals.

#### **§ 1304.23 Child nutrition.**

(a) *Identification of nutritional needs.* Staff and families must work together to identify each child's nutritional needs, taking into account staff and family discussions concerning:

(1) Any relevant nutrition-related assessment data (height, weight, hemoglobin/hematocrit) obtained under 45 CFR 1304.20(a);

(2) Information about family eating patterns, including cultural preferences, special dietary requirements for each child with nutrition-related health problems, and the feeding requirements of infants and toddlers and each child with disabilities (see 45 CFR 1308.20);

(3) For infants and toddlers, current feeding schedules and amounts and types of food provided, including whether breast milk or formula and baby food is used; meal patterns; new foods introduced; food intolerances and preferences; voiding patterns; and observations related to developmental changes in feeding and nutrition. This information must be shared with parents and updated regularly; and

(4) Information about major community nutritional issues, as identified through the Community Assessment or by the Health Services Advisory Committee or the local health department.

(b) *Nutritional services.* (1) Grantee and delegate agencies must design and implement a nutrition program that meets the nutritional needs and feeding requirements of each child, including those with special dietary needs and children with disabilities. Also, the nutrition program must serve a variety of foods which consider cultural and ethnic preferences and which broaden the child's food experience.

(i) All Early Head Start and Head Start grantee and delegate agencies must use funds from USDA Food and Consumer Services Child Nutrition Programs as the primary source of payment for meal services. Early Head Start and Head Start funds may be used to cover those allowable costs not covered by the USDA.

(ii) Each child in a part-day center-based setting must receive meals and snacks that provide at least  $\frac{1}{3}$  of the child's daily nutritional needs. Each child in a center-based full-day program must receive meals and snacks that provide  $\frac{1}{2}$  to  $\frac{2}{3}$  of the child's daily nutritional needs, depending upon the length of the program day.

(iii) All children in morning center-based settings who have not received breakfast at the time they arrive at the Early Head Start or Head Start program must be served a nourishing breakfast.

(iv) Each infant and toddler in center-based settings must receive food appropriate to his or her nutritional needs, developmental readiness, and feeding skills, as recommended in the USDA meal pattern or nutrient standard menu planning requirements outlined in 7 CFR parts 210, 220, and 226.

(v) For 3- to 5-year-olds in center-based settings, the quantities and kinds of food served must conform to recommended serving sizes and minimum standards for meal patterns recommended in the USDA meal pattern or nutrient standard menu planning requirements outlined in 7 CFR parts 210, 220, and 226.

(vi) For 3- to 5-year-olds in center-based settings or other Head Start group experiences, foods served must be high in nutrients and low in fat, sugar, and salt.

(vii) Meal and snack periods in center-based settings must be appropriately scheduled and adjusted, where necessary, to ensure that individual needs are met. Infants and young toddlers who need it must be fed

“on demand” to the extent possible or at appropriate intervals.

(2) Grantee and delegate agencies operating home-based program options must provide appropriate snacks and meals to each child during group socialization activities (see 45 CFR 1306.33 for information regarding home-based group socialization).

(3) Staff must promote effective dental hygiene among children in conjunction with meals.

(4) Parents and appropriate community agencies must be involved in planning, implementing, and evaluating the agencies’ nutritional services.

(c) *Meal service.* Grantee and delegate agencies must ensure that nutritional services in center-based settings contribute to the development and socialization of enrolled children by providing that:

(1) A variety of food is served which broadens each child’s food experiences;

(2) Food is not used as punishment or reward, and that each child is encouraged, but not forced, to eat or taste his or her food;

(3) Sufficient time is allowed for each child to eat;

(4) All toddlers and preschool children and assigned classroom staff, including volunteers, eat together family style and share the same menu to the extent possible;

(5) Infants are held while being fed and are not laid down to sleep with a bottle;

(6) Medically-based diets or other dietary requirements are accommodated; and

(7) As developmentally appropriate, opportunity is provided for the involvement of children in food-related activities.

(d) *Family assistance with nutrition.* Parent education activities must include opportunities to assist individual families with food preparation and nutritional skills.

(e) *Food safety and sanitation.* (1) Grantee and delegate agencies must post evidence of compliance with all applicable Federal, State, Tribal, and local food safety and sanitation laws, including those related to the storage, preparation and service of food and the health of food handlers. In addition, agencies must contract only with food service vendors that are licensed in accordance with State, Tribal or local laws.

(2) For programs serving infants and toddlers, facilities must be available for the proper storage and handling of breast milk and formula.

#### **§ 1304.24 Child mental health.**

(a) *Mental health services.* (1) Grantee and delegate agencies must work collaboratively with parents (see 45 CFR 1304.40(f) for issues related to parent education) by:

(i) Soliciting parental information, observations, and concerns about their child’s mental health;

(ii) Sharing staff observations of their child and discussing and anticipating with parents their child’s behavior and development, including separation and attachment issues;

(iii) Discussing and identifying with parents appropriate responses to their child’s behaviors;

(iv) Discussing how to strengthen nurturing, supportive environments and relationships in the home and at the program;

(v) Helping parents to better understand mental health issues; and

(vi) Supporting parents’ participation in any needed mental health interventions.

(2) Grantee and delegate agencies must secure the services of mental health professionals on a schedule of sufficient frequency to enable the timely and effective identification of and intervention in family and staff concerns about a child’s mental health; and

(3) Mental health program services must include a regular schedule of on-site mental health consultation involving the mental health professional, program staff, and parents on how to:

(i) Design and implement program practices responsive to the identified behavioral and mental health concerns of an individual child or group of children;

(ii) Promote children’s mental wellness by providing group and individual staff and parent education on mental health issues;

(iii) Assist in providing special help for children with atypical behavior or development; and

(iv) Utilize other community mental health resources, as needed.

#### **Subpart C—Family and Community Partnerships**

##### **§ 1304.40 Family partnerships.**

(a) *Family goal setting.* (1) Grantee and delegate agencies must engage in a process of collaborative partnership-building with parents to establish mutual trust and to identify family goals, strengths, and necessary services and other supports. This process must be initiated as early after enrollment as possible and it must take into consideration each family’s readiness

and willingness to participate in the process.

(2) As part of this ongoing partnership, grantee and delegate agencies must offer parents opportunities to develop and implement individualized Family Partnership Agreements that describe family goals, responsibilities, timetables and strategies for achieving these goals as well as progress in achieving them. In home-based program options, this Agreement must include the above information as well as the specific roles of parents in home visits and group socialization activities (see 45 CFR 1306.33(b)).

(3) To avoid duplication of effort, or conflict with, any preexisting family plans developed between other programs and the Early Head Start or Head Start family, the Family Partnership Agreement must take into account, and build upon as appropriate, information obtained from the family and other community agencies concerning preexisting family plans. Grantee and delegate agencies must coordinate, to the extent possible, with families and other agencies to support the accomplishment of goals in the preexisting plans.

(4) A variety of opportunities must be created by grantee and delegate agencies for interaction with parents throughout the year.

(5) Meetings and interactions with families must be respectful of each family’s diversity and cultural and ethnic background.

(b) *Accessing community services and resources.* (1) Grantee and delegate agencies must work collaboratively with all participating parents to identify and continually access, either directly or through referrals, services and resources that are responsive to each family’s interests and goals, including:

(i) Emergency or crisis assistance in areas such as food, housing, clothing, and transportation;

(ii) Education and other appropriate interventions, including opportunities for parents to participate in counseling programs or to receive information on mental health issues that place families at risk, such as substance abuse, child abuse and neglect, and domestic violence; and

(iii) Opportunities for continuing education and employment training and other employment services through formal and informal networks in the community.

(2) Grantee and delegate agencies must follow-up with each family to determine whether the kind, quality, and timeliness of the services received

through referrals met the families' expectations and circumstances.

(c) *Services to pregnant women who are enrolled in programs serving pregnant women, infants, and toddlers.*

(1) Early Head Start grantee and delegate agencies must assist pregnant women to access comprehensive prenatal and postpartum care, through referrals, immediately after enrollment in the program. This care must include:

(i) Early and continuing risk assessments, which include an assessment of nutritional status as well as nutrition counseling and food assistance, if necessary;

(ii) Health promotion and treatment, including medical and dental examinations on a schedule deemed appropriate by the attending health care providers as early in the pregnancy as possible; and

(iii) Mental health interventions and follow-up, including substance abuse prevention and treatment services, as needed.

(2) Grantee and delegate agencies must provide pregnant women and other family members, as appropriate, with prenatal education on fetal development (including risks from smoking and alcohol), labor and delivery, and postpartum recovery (including maternal depression).

(3) Grantee and delegate agencies must provide information on the benefits of breast feeding to all pregnant and nursing mothers. For those who choose to breast feed in center-based programs, arrangements must be provided as necessary.

(d) *Parent involvement—general.* (1) In addition to involving parents in program policy-making and operations (see 45 CFR 1304.50), grantee and delegate agencies must provide parent involvement and education activities that are responsive to the ongoing and expressed needs of the parents, both as individuals and as members of a group. Other community agencies should be encouraged to assist in the planning and implementation of such programs.

(2) Early Head Start and Head Start settings must be open to parents during all program hours. Parents must be welcomed as visitors and encouraged to observe children as often as possible and to participate with children in group activities. The participation of parents in any program activity must be voluntary, and must not be required as a condition of the child's enrollment.

(3) Grantee and delegate agencies must provide parents with opportunities to participate in the program as employees or volunteers (see 45 CFR 1304.52(b)(3) for additional requirements about hiring parents).

(e) *Parent involvement in child development and education.* (1) Grantee and delegate agencies must provide opportunities to include parents in the development of the program's curriculum and approach to child development and education (see 45 CFR 1304.3(a)(5) for a definition of curriculum).

(2) Grantees and delegate agencies operating home-based program options must build upon the principles of adult learning to assist, encourage, and support parents as they foster the growth and development of their children.

(3) Grantee and delegate agencies must provide opportunities for parents to enhance their parenting skills, knowledge, and understanding of the educational and developmental needs and activities of their children and to share concerns about their children with program staff (see 45 CFR 1304.21 for additional requirements related to parent involvement).

(4) Grantee and delegate agencies must provide, either directly or through referrals to other local agencies, opportunities for children and families to participate in family literacy services by:

(i) Increasing family access to materials, services, and activities essential to family literacy development; and

(ii) Assisting parents as adult learners to recognize and address their own literacy goals.

(5) In addition to the two home visits, teachers in center-based programs must conduct staff-parent conferences, as needed, but no less than two per program year, to enhance the knowledge and understanding of both staff and parents of the educational and developmental progress and activities of children in the program (see 45 CFR 1304.21(a)(2)(iii) and 45 CFR 1304.40(i) for additional requirements about staff-parent conferences and home visits).

(f) *Parent involvement in health, nutrition, and mental health education.* (1) Grantee and delegate agencies must provide medical, dental, nutrition, and mental health education programs for program staff, parents, and families.

(2) Grantee and delegate agencies must ensure that, at a minimum, the medical and dental health education program:

(i) Assists parents in understanding how to enroll and participate in a system of ongoing family health care.

(ii) Encourages parents to become active partners in their children's medical and dental health care process and to accompany their child to medical

and dental examinations and appointments; and

(iii) Provides parents with the opportunity to learn the principles of preventive medical and dental health, emergency first-aid, occupational and environmental hazards, and safety practices for use in the classroom and in the home. In addition to information on general topics (e.g., maternal and child health and the prevention of Sudden Infant Death Syndrome), information specific to the health needs of individual children must also be made available to the extent possible.

(3) Grantee and delegate agencies must ensure that the nutrition education program includes, at a minimum:

(i) Nutrition education in the selection and preparation of foods to meet family needs and in the management of food budgets; and

(ii) Parent discussions with program staff about the nutritional status of their child.

(4) Grantee and delegate agencies must ensure that the mental health education program provides, at a minimum (see 45 CFR 1304.24 for issues related to mental health education):

(i) A variety of group opportunities for parents and program staff to identify and discuss issues related to child mental health;

(ii) Individual opportunities for parents to discuss mental health issues related to their child and family with program staff; and

(iii) The active involvement of parents in planning and implementing any mental health interventions for their children.

(g) *Parent involvement in community advocacy.* (1) Grantee and delegate agencies must:

(i) Support and encourage parents to influence the character and goals of community services in order to make them more responsive to their interests and needs; and

(ii) Establish procedures to provide families with comprehensive information about community resources (see 45 CFR 1304.41(a)(2) for additional requirements).

(2) Parents must be provided regular opportunities to work together, and with other community members, on activities that they have helped develop and in which they have expressed an interest.

(h) *Parent involvement in transition activities.* (1) Grantee and delegate agencies must assist parents in becoming their children's advocate as they transition both into Early Head Start or Head Start from the home or other child care setting, and from Head Start to elementary school, a Title I of

the Elementary and Secondary Education Act preschool program, or a child care setting.

(2) Staff must work to prepare parents to become their children's advocate through transition periods by providing that, at a minimum, a staff-parent meeting is held toward the end of the child's participation in the program to enable parents to understand the child's progress while enrolled in Early Head Start or Head Start.

(3) To promote the continued involvement of Head Start parents in the education and development of their children upon transition to school, grantee and delegate agencies must:

(i) Provide education and training to parents to prepare them to exercise their rights and responsibilities concerning the education of their children in the school setting; and

(ii) Assist parents to communicate with teachers and other school personnel so that parents can participate in decisions related to their children's education.

(4) See 45 CFR 1304.41(c) for additional standards related to children's transition to and from Early Head Start or Head Start.

(i) *Parent involvement in home visits.*

(1) Grantee and delegate agencies must not require that parents permit home visits as a condition of the child's participation in Early Head Start or Head Start center-based program options. Every effort must be made to explain the advantages of home visits to the parents.

(2) The child's teacher in center-based programs must make no less than two home visits per program year to the home of each enrolled child, unless the parents expressly forbid such visits, in accordance with the requirements of 45 CFR 1306.32(b)(8). Other staff working with the family must make or join home visits, as appropriate.

(3) Grantee and delegate agencies must schedule home visits at times that are mutually convenient for the parents or primary caregivers and staff.

(4) In cases where parents whose children are enrolled in the center-based program option ask that the home visits be conducted outside the home, or in cases where a visit to the home presents significant safety hazards for staff, the home visit may take place at an Early Head Start or Head Start site or at another safe location that affords privacy. Home visits in home-based program options must be conducted in the family's home.

(5) In addition, grantee and delegate agencies operating home-based program options must meet the requirements of

45 CFR 1306.33(a)(1) regarding home visits.

(6) Grantee and delegate agencies serving infants and toddlers must arrange for health staff to visit each newborn within two weeks after the infant's birth to ensure the well-being of both the mother and the child.

#### **§ 1304.41 Community partnerships.**

(a) *Partnerships.* (1) Grantee and delegate agencies must take an active role in community planning to encourage strong communication, cooperation, and the sharing of information among agencies and their community partners and to improve the delivery of community services to children and families in accordance with the agency's confidentiality policies. Documentation must be maintained to reflect the level of effort undertaken to establish community partnerships (see 45 CFR 1304.51 for additional planning requirements).

(2) Grantee and delegate agencies must take affirmative steps to establish ongoing collaborative relationships with community organizations to promote the access of children and families to community services that are responsive to their needs, and to ensure that Early Head Start and Head Start programs respond to community needs, including:

(i) Health care providers, such as clinics, physicians, dentists, and other health professionals;

(ii) Mental health providers;

(iii) Nutritional service providers;

(iv) Individuals and agencies that provide services to children with disabilities and their families (see 45 CFR 1308.4 for specific service requirements);

(v) Family preservation and support services;

(vi) Child protective services and any other agency to which child abuse must be reported under State or Tribal law;

(vii) Local elementary schools and other educational and cultural institutions, such as libraries and museums, for both children and families;

(viii) Providers of child care services; and

(ix) Any other organizations or businesses that may provide support and resources to families.

(3) Grantee and delegate agencies must perform outreach to encourage volunteers from the community to participate in Early Head Start and Head Start programs.

(4) To enable the effective participation of children with disabilities and their families, grantee and delegate agencies must make specific efforts to develop interagency

agreements with local education agencies (LEAs) and other agencies within the grantee and delegate agency's service area (see 45 CFR 1308.4(h) for specific requirements concerning interagency agreements).

(b) *Advisory committees.* Each grantee directly operating an Early Head Start or Head Start program, and each delegate agency, must establish and maintain a Health Services Advisory Committee which includes professionals and volunteers from the community. Grantee and delegate agencies also must establish and maintain such other service advisory committees as they deem appropriate to address program service issues such as community partnerships and to help agencies respond to community needs.

(c) *Transition services.* (1) Grantee and delegate agencies must establish and maintain procedures to support successful transitions for enrolled children and families from previous child care programs into Early Head Start or Head Start and from Head Start into elementary school, a Title I of the Elementary and Secondary Education Act preschool program, or other child care settings. These procedures must include:

(i) Coordinating with the schools or other agencies to ensure that individual Early Head Start or Head Start children's relevant records are transferred to the school or next placement in which a child will enroll or from earlier placements to Early Head Start or Head Start;

(ii) Outreach to encourage communication between Early Head Start or Head Start staff and their counterparts in the schools and other child care settings including principals, teachers, social workers and health staff to facilitate continuity of programming;

(iii) Initiating meetings involving Head Start teachers and parents and kindergarten or elementary school teachers to discuss the developmental progress and abilities of individual children; and

(iv) Initiating joint transition-related training for Early Head Start or Head Start staff and school or other child development staff.

(2) To ensure the most appropriate placement and services following participation in Early Head Start, transition planning must be undertaken for each child and family at least six months prior to the child's third birthday. The process must take into account: The child's health status and developmental level, progress made by the child and family while in Early Head Start, current and changing family circumstances, and the availability of

Head Start and other child development or child care services in the community. As appropriate, a child may remain in Early Head Start, following his or her third birthday, for additional months until he or she can transition into Head Start or another program.

(3) See 45 CFR 1304.40(h) for additional requirements related to parental participation in their child's transition to and from Early Head Start or Head Start.

#### **Subpart D—Program Design and Management**

##### **§ 1304.50 Program governance.**

(a) *Policy Council, Policy Committee, and Parent Committee structure.* (1) Grantee and delegate agencies must establish and maintain a formal structure of shared governance through which parents can participate in policy making or in other decisions about the program. This structure must consist of the following groups, as required:

(i) Policy Council. This Council must be established at the grantee level.

(ii) Policy Committee. This Committee must be established at the delegate agency level when the program is administered in whole or in part by such agencies (see 45 CFR 1301.2 for a definition of a delegate agency).

(iii) Parent Committee. For center-based programs, this Committee must be established at the center level. For other program options, an equivalent Committee must be established at the local program level. When programs operate more than one option from the same site, the Parent Committee membership is combined unless parents choose to have a separate Committee for each option.

(2) Parent Committees must be comprised exclusively of the parents of children currently enrolled at the center level for center-based programs or at the equivalent level for other program options (see 45 CFR 1306.3(h) for a definition of a Head Start parent).

(3) All Policy Councils, Policy Committees, and Parent Committees must be established as early in the program year as possible. Grantee Policy Councils and delegate Policy Committees may not be dissolved until successor Councils or Committees are elected and seated.

(4) When a grantee has delegated the entire Head Start program to one delegate agency, it is not necessary to have a Policy Committee in addition to a grantee agency Policy Council.

(5) The governing body (the group with legal and fiscal responsibility for administering the Early Head Start or Head Start program) and the Policy

Council or Policy Committee must not have identical memberships and functions.

(b) *Policy group composition and formation.* (1) Each grantee and delegate agency governing body operating an Early Head Start or Head Start program must (except where such authority is ceded to the Policy Council or Policy Committee) propose, within the framework of these regulations, the total size of their respective policy groups (based on the number of centers, classrooms or other program option units, and the number of children served by their Early Head Start or Head Start program), the procedures for the election of parent members, and the procedure for the selection of community representatives. These proposals must be approved by the Policy Council or Policy Committee.

(2) Policy Councils and Policy Committees must be comprised of two types of representatives: parents of currently enrolled children and community representatives. At least 51 percent of the members of these policy groups must be the parents of currently enrolled children (see 45 CFR 1306.3(h) for a definition of a Head Start parent).

(3) Community representatives must be drawn from the local community: businesses; public or private community, civic, and professional organizations; and others who are familiar with resources and services for low-income children and families. Community representatives may include the parents of formerly enrolled children.

(4) All parent members of Policy Councils or Policy Committees must stand for election or re-election annually. All community representatives also must be selected annually.

(5) Policy Councils and Policy Committees must limit the number of one-year terms any individual may serve on either body to a combined total of three terms.

(6) No grantee or delegate agency staff (or members of their immediate families) may serve on Policy Councils or Policy Committees except parents who occasionally substitute for regular Early Head Start or Head Start staff. In the case of Tribal grantees, this exclusion applies only to Tribal staff who work in areas directly related to or which directly impact upon any Early Head Start or Head Start administrative, fiscal or programmatic issues.

(7) Parents of children currently enrolled in all program options must be proportionately represented on established policy groups.

(c) *Policy group responsibilities—general.* At a minimum policy groups must be charged with the responsibilities described in paragraphs (d), (f), (g), and (h) of this section and repeated in appendix A of this section.

(d) *The Policy Council or Policy Committee.* (1) Policy Councils and Policy Committees must work in partnership with key management staff and the governing body to develop, review, and approve or disapprove the following policies and procedures:

(i) All funding applications and amendments to funding applications for Early Head Start and Head Start, including administrative services, prior to the submission of such applications to the grantee (in the case of Policy Committees) or to HHS (in the case of Policy Councils);

(ii) Procedures describing how the governing body and the appropriate policy group will implement shared decision-making;

(iii) Procedures for program planning in accordance with this part and the requirements of 45 CFR 1305.3 (this regulation is binding on Policy Councils exclusively);

(iv) The program's philosophy and long- and short-range program goals and objectives (see 45 CFR 1304.51(a) and 45 CFR 1305.3 for additional requirements regarding program planning);

(v) The selection of delegate agencies and their service areas (this regulation is binding on Policy Councils exclusively) (see 45 CFR 1301.33 and 45 CFR 1305.3(a) for additional requirements about delegate agency and service area selection, respectively);

(vi) The composition of the Policy Council or the Policy Committee and the procedures by which policy group members are chosen;

(vii) Criteria for defining recruitment, selection, and enrollment priorities, in accordance with the requirements of 45 CFR part 1305;

(viii) The annual self-assessment of the grantee or delegate agency's progress in carrying out the programmatic and fiscal intent of its grant application, including planning or other actions that may result from the review of the annual audit and findings from the Federal monitoring review (see 45 CFR 1304.51(i)(1) for additional requirements about the annual self-assessment);

(ix) The annual independent audit that must be conducted in accordance with 45 CFR 1301.12;

(x) Program personnel policies and subsequent changes to those policies, in accordance with 45 CFR 1301.31, including standards of conduct for

program staff, consultants, and volunteers;

(xi) Decisions to hire or terminate the Early Head Start or Head Start director of the grantee or delegate agency; and

(xii) Decisions to hire or terminate any person who works primarily for the Early Head Start or Head Start program of the grantee or delegate agency.

(2) In addition, Policy Councils and Policy Committees must perform the following functions directly:

(i) Serve as a link to the Parent Committees, grantee and delegate agency governing bodies, public and private organizations, and the communities they serve;

(ii) Assist Parent Committees in communicating with parents enrolled in all program options to ensure that they understand their rights, responsibilities, and opportunities in Early Head Start and Head Start and to encourage their participation in the program;

(iii) Assist Parent Committees in planning, coordinating, and organizing program activities for parents with the assistance of staff, and ensuring that

funds set aside from program budgets are used to support parent activities;

(iv) Assist in recruiting volunteer services from parents, community residents, and community organizations, and assist in the mobilization of community resources to meet identified needs; and

(v) Establish and maintain procedures for working with the grantee or delegate agency to resolve community complaints about the program.

(e) *Parent Committee*. The Parent Committee must carry out at least the following minimum responsibilities:

(1) Advise staff in developing and implementing local program policies, activities, and services;

(2) Plan, conduct, and participate in informal as well as formal programs and activities for parents and staff; and

(3) Within the guidelines established by the Governing Board, Policy Council, or Policy Committee, participate in the recruitment and screening of Early Head Start and Head Start employees.

(f) *Policy Council, Policy Committee, and Parent Committee reimbursement*.

Grantee and delegate agencies must enable low-income members to participate fully in their group responsibilities by providing, if necessary, reimbursements for reasonable expenses incurred by the members.

(g) *Governing body responsibilities*.

(1) Grantee and delegate agencies must have written policies that define the roles and responsibilities of the governing body members and that inform them of the management procedures and functions necessary to implement a high quality program.

(2) Grantee and delegate agencies must ensure that appropriate internal controls are established and implemented to safeguard Federal funds in accordance with 45 CFR 1301.13.

(h) *Internal dispute resolution*. Each grantee and delegate agency and Policy Council or Policy Committee jointly must establish written procedures for resolving internal disputes, including impasse procedures, between the governing body and policy group.

#### Appendix A—Governance and Management Responsibilities

[A=General responsibility; B=Operating responsibility; C=Must approve or disapprove; D=Determined locally]

Function	Grantee agency		Delegate agency		Grantee or delegate management staff	
	Governing body	Policy council	Governing body	Policy cmte.	HS* program director	Agency director
<b>I. Planning</b>						
(a) 1304.50(d)(1)(iii) Procedures for program planning in accordance with this Part and the requirements of 45 CFR 1305.3 (this regulation is binding on Policy Councils exclusively).	A & C	C	C	C	B	D
(b) 1304.50(d)(1)(iv) The program's philosophy and long- and short-range program goals and objectives (see 45 CFR 1304.51(a) and 45 CFR 1305.3 for additional requirements regarding program planning).	A & C	C	C	C	B	D
(c) 1304.50(d)(1)(v) The selection of delegate agencies and their service areas (this regulation is binding on Policy Councils exclusively) (see 45 CFR 1301.33 and 45 CFR 1305.3(a) for additional requirements about delegate agency and service area selection, respectively).	A & C	C	—	—	B (Grantee only)	D (Grantee only)
(d) 1304.50(d)(1)(vii) Criteria for defining recruitment, selection, and enrollment priorities, in accordance with the requirements of 45 CFR Part 1305.	A	C	A	C	B	D
(e) 1304.50(d)(1)(i) All funding applications and amendments to funding applications for Early Head Start and Head Start, including administrative services, prior to the submission of such applications to the grantee (in the case of Policy Committees) or to HHS (in the case of Policy Councils).	A & C	C	A & C	C	B	D
(f) 1304.50(f) Policy Council, Policy Committee, and Parent Committee reimbursement. Grantee and delegate agencies must enable low-income members to participate fully in their group responsibilities by providing, if necessary, reimbursements for reasonable expenses incurred by the members.	A	C	A	C	B	D

[A=General responsibility; B=Operating responsibility; C=Must approve or disapprove; D=Determined locally]

Function	Grantee agency		Delegate agency		Grantee or delegate management staff	
	Governing body	Policy council	Governing body	Policy cmte.	HS* program director	Agency director
(g) 1304.50(d)(1)(viii) The annual self-assessment of the grantee or delegate agency's progress in carrying out the programmatic and fiscal intent of its grant application, including planning or other actions that may result from the review of the annual audit and findings from the Federal monitoring review (see 45 CFR 1304.51(i)(1) for additional requirements about the annual self-assessment).	A	C	A	C	B	D

**II. General Procedures**

(a) 1304.50(d)(1)(vi) The composition of the Policy Council or the Policy Committee and the procedures by which policy group members are chosen.	A & C	C	A & C	C	B	D
(b) 1304.50(g)(1) Grantee and delegate agencies must have written policies that define the roles and responsibilities of the governing body members and that inform them of the management procedures and functions necessary to implement a high quality program.	A & C	C	A & C	C	—	D
(c) 1304.50(d)(1)(ii) Procedures describing how the governing body and the appropriate policy group will implement shared decision-making.	A & C	C	A & C	C	D	D
(d) 1304.50(h) Internal dispute resolution. Each grantee and delegate agency and Policy Council or Policy Committee jointly must establish written procedures for resolving internal disputes, including impasse procedures, between the governing body and policy group.	A & C	C	A & C	C	D	D
(e) 1304.50(d)(2)(v) Establish and maintain procedures for hearing and working with the grantee or delegate agency to resolve community complaints about the program.	B	B	B	B	D	D
(f) 1304.50(g)(2) Grantee and delegate agencies must ensure that appropriate internal controls are established and implemented to safeguard Federal funds in accordance with 45 CFR 1301.13.	A	—	A	—	D	D
(g) 1304.50(d)(1)(ix) The annual independent audit that must be conducted in accordance with 45 CFR 1301.12.	A	—	A	—	D	D

**III. Human Resources Management**

(a) 1304.50(d)(1)(x) Program personnel policies and subsequent changes to those policies, in accordance with 45 CFR 1301.31, including standards of conduct for program staff, consultants, and volunteers.	A & C	C	A & C	C	D	D
(b) 1304.50(d)(1)(xi) Decisions to hire or terminate the Early Head Start or Head Start director of the grantee agency.	A & C	C	—	—	—	D
(c) 1304.50(d)(1)(xii) Decisions to hire or terminate any person who works primarily for the Early Head Start or Head Start program of the grantee agency.	C	C	—	—	B (Grantee only)	D
(d) 1304.50(d)(1)(xi) Decisions to hire or terminate the Early Head Start or Head Start director of the delegate agency.	—	—	A & C	C	—	D
(e) 1304.50(d)(1)(xii) Decisions to hire or terminate any person who works primarily for the Early Head Start or Head Start program of the delegate agency.	—	—	C	C	B (Delegate only)	D

**KEY AND DEFINITIONS AS USED IN CHART**

\*When a grantee or delegate agency operates an Early Head Start program only and not an Early Head Start and a Head Start program, these responsibilities apply to the Early Head Start Director.

A. General Responsibility. The group with legal and fiscal responsibility that guides and oversees the carrying out of the functions described through the individual or group given operating responsibility.

B. Operating Responsibility. The individual or group that is directly responsible for carrying out or performing the functions consistent with the general guidance and oversight from the group holding general responsibility.

C. Must Approve or Disapprove. The group that must be involved in the decision-making process prior to the point of seeking approval. If it does not approve, a proposal cannot be adopted, or the proposed action taken, until agreement is reached between the disagreeing groups.

D. Determined locally. Management staff functions as determined by the local governing body and in accordance with all Head Start regulations.

**§ 1304.51 Management systems and procedures.**

(a) *Program planning.* (1) Grantee and delegate agencies must develop and implement a systematic, ongoing process of program planning that includes consultation with the program's governing body, policy groups, and program staff, and with other community organizations that serve Early Head Start and Head Start or other low-income families with young children. Program planning must include:

(i) An assessment of community strengths, needs and resources through completion of the Community Assessment, in accordance with the requirements of 45 CFR 1305.3;

(ii) The formulation of both multi-year (long-range) program goals and short-term program and financial objectives that address the findings of the Community Assessment, are consistent with the philosophy of Early Head Start and Head Start, and reflect the findings of the program's annual self-assessment; and

(iii) The development of written plan(s) for implementing services in each of the program areas covered by this part (e.g., Early Childhood Development and Health Services, Family and Community Partnerships, and Program Design and Management).

(2) All written plans for implementing services, and the progress in meeting them, must be reviewed by the grantee or delegate agency staff and reviewed and approved by the Policy Council or Policy Committee at least annually, and must be revised and updated as needed.

(b) *Communications—general.* Grantee and delegate agencies must establish and implement systems to ensure that timely and accurate information is provided to parents, policy groups, staff, and the general community.

(c) *Communication with families.* (1) Grantee and delegate agencies must ensure that effective two-way comprehensive communications between staff and parents are carried out on a regular basis throughout the program year.

(2) Communication with parents must be carried out in the parents' primary or preferred language or through an interpreter, to the extent feasible.

(d) *Communication with governing bodies and policy groups.* Grantee and delegate agencies must ensure that the following information is provided regularly to their grantee and delegate governing bodies and to members of their policy groups:

(1) Procedures and timetables for program planning;

(2) Policies, guidelines, and other communications from HHS;

(3) Program and financial reports; and

(4) Program plans, policies, procedures, and Early Head Start and Head Start grant applications.

(e) *Communication among staff.* Grantee and delegate agencies must have mechanisms for regular communication among all program staff to facilitate quality outcomes for children and families.

(f) *Communication with delegate agencies.* Grantees must have a procedure for ensuring that delegate agency governing bodies, Policy Committees, and all staff receive all regulations, policies, and other pertinent communications in a timely manner.

(g) *Record-keeping systems.* Grantee and delegate agencies must establish and maintain efficient and effective record-keeping systems to provide accurate and timely information regarding children, families, and staff and must ensure appropriate confidentiality of this information.

(h) *Reporting systems.* Grantee and delegate agencies must establish and maintain efficient and effective reporting systems that:

(1) Generate periodic reports of financial status and program operations in order to control program quality, maintain program accountability, and advise governing bodies, policy groups, and staff of program progress; and

(2) Generate official reports for Federal, State, and local authorities, as required by applicable law.

(i) *Program self-assessment and monitoring.* (1) At least once each program year, with the consultation and participation of the policy groups and, as appropriate, other community members, grantee and delegate agencies must conduct a self-assessment of their effectiveness and progress in meeting program goals and objectives and in implementing Federal regulations.

(2) Grantees must establish and implement procedures for the ongoing monitoring of their own Early Head Start and Head Start operations, as well as those of each of their delegate agencies, to ensure that these operations effectively implement Federal regulations.

(3) Grantees must inform delegate agency governing bodies of any deficiencies in delegate agency operations identified in the monitoring review and must help them develop plans, including timetables, for addressing identified problems.

**§ 1304.52 Human resources management.**

(a) *Organizational structure.* (1) Grantee and delegate agencies must establish and maintain an organizational structure that supports the accomplishment of program objectives. This structure must address the major functions and responsibilities assigned to each staff position and must provide evidence of adequate mechanisms for staff supervision and support.

(2) At a minimum, grantee and delegate agencies must ensure that the following program management functions are formally assigned to and adopted by staff within the program:

(i) Program management (the Early Head Start or Head Start director);

(ii) Management of early childhood development and health services, including child development and education; child medical, dental, and mental health; child nutrition; and, services for children with disabilities; and

(iii) Management of family and community partnerships, including parent activities.

(b) *Staff qualifications—general.* (1) Grantee and delegate agencies must ensure that staff and consultants have the knowledge, skills, and experience they need to perform their assigned functions responsibly.

(2) In addition, grantee and delegate agencies must ensure that only candidates with the qualifications specified in this part and in 45 CFR 1306.21 are hired.

(3) Current and former Early Head Start and Head Start parents must receive preference for employment vacancies for which they are qualified.

(4) Staff and program consultants must be familiar with the ethnic background and heritage of families in the program and must be able to serve and effectively communicate, to the extent feasible, with children and families with no or limited English proficiency.

(c) *Early Head Start or Head Start director qualifications.* The Early Head Start or Head Start director must have demonstrated skills and abilities in a management capacity relevant to human services program management.

(d) *Qualifications of content area experts.* Grantee and delegate agencies must hire staff or consultants who meet the qualifications listed below to provide content area expertise and oversight on an ongoing or regularly scheduled basis. Agencies must determine the appropriate staffing pattern necessary to provide these functions.

(1) Education and child development services must be supported by staff or

consultants with training and experience in areas that include: The theories and principles of child growth and development, early childhood education, and family support. In addition, staff or consultants must meet the qualifications for classroom teachers, as specified in section 648A of the Head Start Act and any subsequent amendments regarding the qualifications of teachers.

(2) Health services must be supported by staff or consultants with training and experience in public health, nursing, health education, maternal and child health, or health administration. In addition, when a health procedure must be performed only by a licensed/certified health professional, the agency must assure that the requirement is followed.

(3) Nutrition services must be supported by staff or consultants who are registered dietitians or nutritionists.

(4) Mental health services must be supported by staff or consultants who are licensed or certified mental health professionals with experience and expertise in serving young children and their families.

(5) Family and community partnership services must be supported by staff or consultants with training and experience in field(s) related to social, human, or family services.

(6) Parent involvement services must be supported by staff or consultants with training, experience, and skills in assisting the parents of young children in advocating and decision-making for their families.

(7) Disabilities services must be supported by staff or consultants with training and experience in securing and individualizing needed services for children with disabilities.

(8) Grantee and delegate agencies must secure the regularly scheduled or ongoing services of a qualified fiscal officer.

(e) *Home visitor qualifications.* Home visitors must have knowledge and experience in child development and early childhood education; the principles of child health, safety, and nutrition; adult learning principles; and family dynamics. They must be skilled in communicating with and motivating people. In addition, they must have knowledge of community resources and the skills to link families with appropriate agencies and services.

(f) *Infant and toddler staff qualifications.* Early Head Start and Head Start staff working as teachers with infants and toddlers must obtain a Child Development Associate (CDA) credential for Infant and Toddler Caregivers or an equivalent credential

that addresses comparable competencies within one year of the effective date of the final rule or, thereafter, within one year of hire as a teacher of infants and toddlers. In addition, infants and toddler teachers must have the training and experience necessary to develop consistent, stable, and supportive relationships with very young children. The training must develop knowledge of infant and toddler development, safety issues in infant and toddler care (e.g., reducing the risk of Sudden Infant Death Syndrome), and methods for communicating effectively with infants and toddlers, their parents, and other staff members.

(g) *Classroom staffing and home visitors.* (1) Grantee and delegate agencies must meet the requirements of 45 CFR 1306.20 regarding classroom staffing.

(2) When a majority of children speak the same language, at least one classroom staff member or home visitor interacting regularly with the children must speak their language.

(3) For center-based programs, the class size requirements specified in 45 CFR 1306.32 must be maintained through the provision of substitutes when regular classroom staff are absent.

(4) Grantee and delegate agencies must ensure that each teacher working exclusively with infants and toddlers has responsibility for no more than four infants and toddlers and that no more than eight infants and toddlers are placed in any one group. However, if State, Tribal or local regulations specify staff:child ratios and group sizes more stringent than this requirement, the State, Tribal or local regulations must apply.

(5) Staff must supervise the outdoor and indoor play areas in such a way that children's safety can be easily monitored and ensured.

(h) *Standards of conduct.* (1) Grantee and delegate agencies must ensure that all staff, consultants, and volunteers abide by the program's standards of conduct. These standards must specify that:

(i) They will respect and promote the unique identity of each child and family and refrain from stereotyping on the basis of gender, race, ethnicity, culture, religion, or disability;

(ii) They will follow program confidentiality policies concerning information about children, families, and other staff members;

(iii) No child will be left alone or unsupervised while under their care; and

(iv) They will use positive methods of child guidance and will not engage in corporal punishment, emotional or

physical abuse, or humiliation. In addition, they will not employ methods of discipline that involve isolation, the use of food as punishment or reward, or the denial of basic needs.

(2) Grantee and delegate agencies must ensure that all employees engaged in the award and administration of contracts or other financial awards sign statements that they will not solicit or accept personal gratuities, favors, or anything of significant monetary value from contractors or potential contractors.

(3) Personnel policies and procedures must include provision for appropriate penalties for violating the standards of conduct.

(i) *Staff performance appraisals.*

Grantee and delegate agencies must, at a minimum, perform annual performance reviews of each Early Head Start and Head Start staff member and use the results of these reviews to identify staff training and professional development needs, modify staff performance agreements, as necessary, and assist each staff member in improving his or her skills and professional competencies.

(j) *Staff and volunteer health.* (1) Grantee and delegate agencies must assure that each staff member has an initial health examination that includes screening for tuberculosis and a periodic re-examination (as recommended by their health care provider or as mandated by State, Tribal, or local laws) so as to assure that they do not, because of communicable diseases, pose a significant risk to the health or safety of others in the Early Head Start or Head Start program that cannot be eliminated or reduced by reasonable accommodation. This requirement must be implemented consistent with the requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

(2) Regular volunteers must be screened for tuberculosis in accordance with State, Tribal or local laws. In the absence of State, Tribal or local law, the Health Services Advisory Committee must be consulted regarding the need for such screenings (see 45 CFR 1304.3(20) for a definition of volunteer).

(3) Grantee and delegate agencies must make mental health and wellness information available to staff with concerns that may affect their job performance.

(k) *Training and development.* (1) Grantee and delegate agencies must provide an orientation to all new staff, consultants, and volunteers that includes, at a minimum, the goals and underlying philosophy of Early Head Start and/or Head Start and the ways in

which they are implemented by the program.

(2) Grantee and delegate agencies must establish and implement a structured approach to staff training and development, attaching academic credit whenever possible. This system should be designed to help build relationships among staff and to assist staff in acquiring or increasing the knowledge and skills needed to fulfill their job responsibilities, in accordance with the requirements of 45 CFR 1306.23.

(3) At a minimum, this system must include ongoing opportunities for staff to acquire the knowledge and skills necessary to implement the content of the Head Start Program Performance Standards. This program must also include:

(i) Methods for identifying and reporting child abuse and neglect that comply with applicable State and local laws using, so far as possible, a helpful rather than a punitive attitude toward abusing or neglecting parents and other caretakers; and

(ii) Methods for planning for successful child and family transitions to and from the Early Head Start or Head Start program.

(4) Grantee and delegate agencies must provide training or orientation to Early Head Start and Head Start governing body members. Agencies must also provide orientation and ongoing training to Early Head Start and Head Start Policy Council and Policy Committee members to enable them to carry out their program governance responsibilities effectively.

#### **§ 1304.53 Facilities, materials, and equipment.**

(a) *Head Start physical environment and facilities.* (1) Grantee and delegate agencies must provide a physical environment and facilities conducive to learning and reflective of the different stages of development of each child.

(2) Grantee and delegate agencies must provide appropriate space for the conduct of all program activities (see 45 CFR 1308.4 for specific access requirements for children with disabilities).

(3) The center space provided by grantee and delegate agencies must be organized into functional areas that can be recognized by the children and that allow for individual activities and social interactions.

(4) The indoor and outdoor space in Early Head Start or Head Start centers in use by mobile infants and toddlers must be separated from general walkways and from areas in use by preschoolers.

(5) Centers must have at least 35 square feet of usable indoor space per child available for the care and use of children (i.e., exclusive of bathrooms, halls, kitchen, staff rooms, and storage places) and at least 75 square feet of usable outdoor play space per child.

(6) Facilities owned or operated by Early Head Start and Head Start grantee or delegate agencies must meet the licensing requirements of 45 CFR 1306.30.

(7) Grantee and delegate agencies must provide for the maintenance, repair, safety, and security of all Early Head Start and Head Start facilities, materials and equipment.

(8) Grantee and delegate agencies must provide a center-based environment free of toxins, such as cigarette smoke, lead, pesticides, herbicides, and other air pollutants as well as soil and water contaminants. Agencies must ensure that no child is present during the spraying of pesticides or herbicides. Children must not return to the affected area until it is safe to do so.

(9) Outdoor play areas at center-based programs must be arranged so as to prevent any child from leaving the premises and getting into unsafe and unsupervised areas. Enroute to play areas, children must not be exposed to vehicular traffic without supervision.

(10) Grantee and delegate agencies must conduct a safety inspection, at least annually, to ensure that each facility's space, light, ventilation, heat, and other physical arrangements are consistent with the health, safety and developmental needs of children. At a minimum, agencies must ensure that:

(i) In climates where such systems are necessary, there is a safe and effective heating and cooling system that is insulated to protect children and staff from potential burns;

(ii) No highly flammable furnishings, decorations, or materials that emit highly toxic fumes when burned are used;

(iii) Flammable and other dangerous materials and potential poisons are stored in locked cabinets or storage facilities separate from stored medications and food and are accessible only to authorized persons. All medications, including those required for staff and volunteers, are labeled, stored under lock and key, refrigerated if necessary, and kept out of the reach of children;

(iv) Rooms are well lit and provide emergency lighting in the case of power failure;

(v) Approved, working fire extinguishers are readily available;

(vi) An appropriate number of smoke detectors are installed and tested regularly;

(vii) Exits are clearly visible and evacuation routes are clearly marked and posted so that the path to safety outside is unmistakable (see 45 CFR 1304.22 for additional emergency procedures);

(viii) Indoor and outdoor premises are cleaned daily and kept free of undesirable and hazardous materials and conditions;

(ix) Paint coatings on both interior and exterior premises used for the care of children do not contain hazardous quantities of lead;

(x) The selection, layout, and maintenance of playground equipment and surfaces minimize the possibility of injury to children;

(xi) Electrical outlets accessible to children prevent shock through the use of child-resistant covers, the installation of child-protection outlets, or the use of safety plugs;

(xii) Windows and glass doors are constructed, adapted, or adjusted to prevent injury to children;

(xiii) Only sources of water approved by the local or State health authority are used;

(xiv) Toilets and handwashing facilities are adequate, clean, in good repair, and easily reached by children. Toileting and diapering areas must be separated from areas used for cooking, eating, or children's activities;

(xv) Toilet training equipment is provided for children being toilet trained;

(xvi) All sewage and liquid waste is disposed of through a locally approved sewer system, and garbage and trash are stored in a safe and sanitary manner; and

(xvii) Adequate provisions are made for children with disabilities to ensure their safety, comfort, and participation.

#### **(b) *Head Start equipment, toys, materials, and furniture.***

(1) Grantee and delegate agencies must provide and arrange sufficient equipment, toys, materials, and furniture to meet the needs and facilitate the participation of children and adults. Equipment, toys, materials, and furniture owned or operated by the grantee or delegate agency must be:

(i) Supportive of the specific educational objectives of the local program;

(ii) Supportive of the cultural and ethnic backgrounds of the children;

(iii) Age-appropriate, safe, and supportive of the abilities and developmental level of each child served, with adaptations, if necessary, for children with disabilities;

- (iv) Accessible, attractive, and inviting to children;
- (v) Designed to provide a variety of learning experiences and to encourage each child to experiment and explore;
- (vi) Safe, durable, and kept in good condition; and
- (vii) Stored in a safe and orderly fashion when not in use.

(2) Infant and toddler toys must be made of non-toxic materials and must be sanitized regularly.

(3) To reduce the risk of Sudden Infant Death Syndrome (SIDS), all sleeping arrangements for infants must use firm mattresses and avoid soft bedding materials such as comforters, pillows, fluffy blankets or stuffed toys.

### Subpart E—Implementation and Enforcement

#### § 1304.60 Deficiencies and quality improvement plans.

(a) Early Head Start and Head Start grantee and delegate agencies must comply with the requirements of this part in accordance with the effective date set forth in 45 CFR 1304.2.

(b) If the responsible HHS official, as a result of information obtained from a review of an Early Head Start or a Head Start grantee, determines that the grantee has one or more deficiencies, as defined in § 1304.3(a)(6) of this part, and therefore also is in violation of the minimum requirements as defined in § 1304.3(a)(14) of this part, he or she will notify the grantee promptly, in writing, of the finding, identifying the deficiencies to be corrected and, with respect to each identified deficiency, will inform the grantee that it must correct the deficiency either immediately or pursuant to a Quality Improvement Plan.

(c) An Early Head Start or Head Start grantee with one or more deficiencies to be corrected under a Quality Improvement Plan must submit to the responsible HHS official a Quality Improvement Plan specifying, for each identified deficiency, the actions that the grantee will take to correct the deficiency and the timeframe within which it will be corrected. In no case can the timeframes proposed in the Quality Improvement Plan exceed one year from the date that the grantee received official notification of the deficiencies to be corrected.

(d) Within 30 days of the receipt of the Quality Improvement Plan, the responsible HHS official will notify the Early Head Start or Head Start grantee, in writing, of the Plan's approval or specify the reasons why the Plan is disapproved.

(e) If the Quality Improvement Plan is disapproved, the Early Head Start or

Head Start grantee must submit a revised Quality Improvement Plan, making the changes necessary to address the reasons that the initial Plan was disapproved.

(f) If an Early Head Start or Head Start grantee fails to correct a deficiency, either immediately, or within the timeframe specified in the approved Quality Improvement Plan, the responsible HHS official will issue a letter of termination or denial of refunding. Head Start grantees may appeal terminations and denials of refunding under 45 CFR part 1303, while Early Head Start grantees may appeal terminations and denials of refunding only under 45 CFR part 74 or part 92. A deficiency that is not timely corrected shall be a material failure of a grantee to comply with the terms and conditions of an award within the meaning of 45 CFR 74.61(a)(1), 45 CFR 74.62 and 45 CFR 92.43(a).

#### § 1304.61 Noncompliance.

(a) If the responsible HHS official, as a result of information obtained from a review of an Early Head Start or Head Start grantee, determines that the grantee is not in compliance with Federal or State requirements (including, but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title) in ways that do not constitute a deficiency, he or she will notify the grantee promptly, in writing, of the finding, identifying the area or areas of noncompliance to be corrected and specifying the period in which they must be corrected.

(b) Early Head Start or Head Start grantees which have received written notification of an area of noncompliance to be corrected must correct the area of noncompliance within the time period specified by the responsible HHS official. A grantee which is unable or unwilling to correct the specified areas of noncompliance within the prescribed time period will be judged to have a deficiency which must be corrected, either immediately or pursuant to a Quality Improvement Plan (see 45 CFR 1304.3(a)(6)(iii) and 45 CFR 1304.60).

### PART 1301—HEAD START GRANTS ADMINISTRATION

2. The authority citation for part 1301 is revised to read as follows:

Authority: 42 U.S.C. 9801 et. seq.

3. Section 1301.31 is revised to read as follows:

#### § 1301.31 Personnel policies.

(a) *Written policies.* Grantee and delegate agencies must establish and

implement written personnel policies for staff, that are approved by the Policy Council or Policy Committee and that are made available to all grantee and delegate agency staff. At a minimum, such policies must include:

(1) Descriptions of each staff position, addressing, as appropriate, roles and responsibilities, relevant qualifications, salary range, and employee benefits (see 45 CFR 1304.52(c) and (d));

(2) A description of the procedures for recruitment, selection and termination (see paragraph (b) of this Section, Staff recruitment and selection procedures);

(3) Standards of conduct (see 45 CFR 1304.52(h));

(4) Descriptions of methods for providing staff and volunteers with opportunities for training, development, and advancement (see 45 CFR 1304.52(k), Training and development);

(5) A description of the procedures for conducting staff performance appraisals (see 45 CFR 1304.52(i), Staff performance appraisals);

(6) Assurances that the program is an equal opportunity employer and does not discriminate on the basis of gender, race, ethnicity, religion or disability; and

(7) A description of employee-management relation procedures, including those for managing employee grievances and adverse actions.

(b) *Staff recruitment and selection procedures.* (1) Before an employee is hired, grantee or delegate agencies must conduct:

(i) An interview with the applicant;

(ii) A verification of personal and employment references; and

(iii) A State or national criminal record check, as required by State law or administrative requirement. If it is not feasible to obtain a criminal record check prior to hiring, an employee must not be considered permanent until such a check has been completed.

(2) Grantee and delegate agencies must require that all current and prospective employees sign a declaration prior to employment that lists:

(i) All pending and prior criminal arrests and charges related to child sexual abuse and their disposition;

(ii) Convictions related to other forms of child abuse and neglect; and

(iii) All convictions of violent felonies.

(3) Grantee and delegate agencies must review each application for employment individually in order to assess the relevancy of an arrest, a pending criminal charge, or a conviction.

(c) *Declaration exclusions.* The declaration required by paragraph (b)(2) of this section may exclude:

- (1) Traffic fines of \$200.00 or less;
- (2) Any offense, other than any offense related to child abuse and/or child sexual abuse or violent felonies, committed before the prospective employee's 18th birthday which was finally adjudicated in a juvenile court or under a youth offender law;
- (3) Any conviction the record of which has been expunged under Federal or State law; and
- (4) Any conviction set aside under the Federal Youth Corrections Act or similar State authority.

(d) *Probationary period.* The policies governing the recruitment and selection of staff must provide for a probationary period for all new employees that allows time to monitor employee performance and to examine and act on the results of the criminal record checks discussed in paragraph (b) (1) of this Section.

(e) *Reporting child abuse or sexual abuse.* Grantee and delegate agencies must develop a plan for responding to suspected or known child abuse or sexual abuse as defined in 45 CFR 1340.2(d) whether it occurs inside or outside of the program.

(Approved by the Office of Management and Budget under control number 0980-0173.)

### **PART 1303—APPEAL PROCEDURES FOR HEAD START GRANTEES AND CURRENT OR PROSPECTIVE DELEGATE AGENCIES**

3. The authority citation for part 1303 continues to read as follows:

Authority: 42 U.S.C. 9801 et seq.

4. Section 1303.14 is amended by revising paragraph (b)(4) and republishing the introductory text to paragraph (b) to read as follows:

#### **§ 1303.14 Appeal by a grantee from a termination of financial assistance.**

\* \* \* \* \*

(b) Financial assistance may be terminated for any or all of the following reasons:

\* \* \* \* \*

(4) The grantee has failed to timely correct one or more deficiencies as defined in 45 CFR Part 1304;

\* \* \* \* \*

### **PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START**

5. The authority citation for part 1305 continues to read as follows:

Authority: 42 U.S.C. 9801 et seq.

6. Section 1305.1 is amended by adding a sentence at the end to read as follows:

#### **§ 1305.1 Purpose and scope.**

\* \* \* These requirements are to be used in conjunction with the Head Start Program Performance Standards at 45 CFR part 1304, as applicable.

7. Section 1305.3 is amended by revising the heading and revising paragraphs (b), introductory text, (c), introductory text, (d), and (f)(1) to read as follows:

#### **§ 1305.3 Determining community strengths and needs.**

\* \* \* \* \*

(b) Each Early Head Start and Head Start grantee and delegate agency must conduct a Community Assessment within its service area once every three years. The Community Assessment must include the collection and analysis of the following information about the grantee's or delegate's Early Head Start or Head Start area:

\* \* \* \* \*

(c) The Early Head Start and Head Start grantee and delegate agency must use information from the Community Assessment to:

\* \* \* \* \*

(d) In each of the two years following completion of the Community Assessment the grantee or delegate agency must conduct a review to determine whether there have been significant changes in the information described in paragraph (b) of this section. If so, the Community Assessment must be updated and the decisions described in paragraph (c) of this section must be reconsidered.

\* \* \* \* \*

(f) \* \* \*

(1) Select an area or areas that are among those having the greatest need for Early Head Start or Head Start services as determined by the Community Assessment; and

\* \* \* \* \*

(The information collection requirements contained in this section are approved by the Office of Management and Budget (OMB) under OMB Control number 0970-0124)

### **PART 1306—HEAD START STAFFING REQUIREMENTS AND PROGRAM OPTIONS**

8. The authority citation for part 1306 is revised to read as follows:

Authority: 42 U.S.C. 9801 et seq.

9. Section 1306.1 is revised to read as follows:

#### **§ 1306.1 Purpose and scope.**

This Part sets forth requirements for Early Head Start and Head Start program staffing and program options that all Early Head Start and Head Start grantee and delegate agencies, with the

exception of Parent Child Center programs, must meet. The exception for Parent Child Centers is for fiscal years 1995, 1996, and 1997 as consistent with section 645A(e)(2) of the Head Start Act, as amended. These requirements, including those pertaining to staffing patterns, the choice of the program options to be implemented and the acceptable ranges in the implementation of those options, have been developed to help maintain and improve the quality of Early Head Start and Head Start and to help promote lasting benefits to the children and families being served. These requirements are to be used in conjunction with the Head Start Program Performance Standards at 45 CFR Part 1304, as applicable.

10. Section 1306.20 is amended by redesignating paragraphs (a) through (e) as (b) through (f) and adding a new paragraph (a) to read as follows:

#### **§ 1306.20 Program staffing patterns.**

(a) Grantees must meet the requirements of 45 CFR 1304.52(g), Classroom staffing and home visitors, in addition to the requirements of this Section.

\* \* \* \* \*

11. Section 1306.21 is revised to read as follows:

#### **§ 1306.21 Staff qualification requirements.**

Head Start programs must comply with section 648A of the Head Start Act and any subsequent amendments regarding the qualifications of classroom teachers.

12. Section 1306.30 is amended by revising paragraph (c) to read as follows:

#### **§ 1306.30 Provisions of comprehensive child development services.**

\* \* \* \* \*

(c) The facilities used by Early Head Start and Head Start grantee and delegate agencies for regularly scheduled center-based and combination program option classroom activities or home-based group socialization activities must comply with State and local requirements concerning licensing. In cases where these licensing standards are less comprehensive or less stringent than the Head Start regulations, or where no State or local licensing standards are applicable, grantee and delegate agencies are, at a minimum, required to assure that their facilities are in compliance with the Head Start Program Performance Standards related to the safety of facilities found in 45 CFR 1304.53(a), Physical environment and facilities.

\* \* \* \* \*

13. Section 1306.33 is amended by revising paragraph (c)(3) to read as follows:

**§ 1306.33 Home-based program option.**

\* \* \* \* \*

(c) \* \* \*

(3) Grantees must follow the nutrition requirements specified in 45 CFR 1304.23(b)(2) and provide appropriate snacks and meals to the children during group socialization activities.

**PART 1308—HEAD START PROGRAM  
PERFORMANCE STANDARDS ON  
SERVICES FOR CHILDREN WITH  
DISABILITIES**

14. The authority citation for Part 1308 continues to read as follows:

Authority: 42 U.S.C. 9801 et seq.

15. Section 1308.6 is amended by revising paragraph (b)(1) to read as follows:

**§ 1308.6 Assessment of children.**

\* \* \* \* \*

(b) \* \* \*

(1) Grantees must provide for developmental, hearing and vision screenings of all Early Head Start and Head Start children within 45 days of the child's entry into the program. This does not preclude starting screening in the spring, before program services begin in the fall.

\* \* \* \* \*

[FR Doc. 96-28134 Filed 11-4-96; 8:45 am]

BILLING CODE 4184-01-P

Essex  
County  
Federal  
Court

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Tuesday  
November 5, 1996

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**Part IV**

**Department of  
Education**

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**Part A of Title I of the Elementary and  
Secondary Education Act of 1965; Notice**

**DEPARTMENT OF EDUCATION****Part A of Title I of the Elementary and Secondary Education Act of 1965****AGENCY:** Department of Education.**ACTION:** Notice of Interpretation.

**SUMMARY:** The Assistant Secretary for Elementary and Secondary Education interprets section 1112(c)(1)(H) of Title I of the Elementary and Secondary Education Act of 1965 to permit a local educational agency (LEA) providing early childhood development services under Title I, Part A prior to January 1, 1998 to comply with either § 1304.21 of the revised Head Start performance standards (published in final elsewhere in this issue of the Federal Register) or the current Head Start performance standards in 45 CFR 1304.2-1—1304.2-3 (1995). This interpretation is needed because section 1112(c)(1)(H) of Title I requires an LEA providing early childhood development services to comply with Head Start performance standards beginning with fiscal year 1997 funds for use in the 1997-98 school year. However, the newly revised Head Start performance standards, including § 1304.21, will not take effect until January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:**

Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW (Portals Building, Room 4400), Washington, D.C. 20202-6132. Telephone (202) 260-0826. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 1112(c)(1)(H) of Title I of the Elementary and Secondary Education Act of 1965 requires a local educational agency (LEA) to assure in its Title I, Part A plan that, beginning in fiscal year 1997, if the LEA "chooses to use [Part A funds] to provide early childhood development services to low-income children below the age of compulsory school attendance, [the LEA will] ensure that such services comply with the

performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994." Section 1112(c)(3) of Title I exempts an LEA from complying with Head Start performance standards if it is using Title I, Part A funds to operate a preschool program using the Even Start model or to expand its Even Start program.

On April 22, 1996, pursuant to the Head Start Act Amendments of 1994, the Associate Commissioner of the Head Start Bureau, Administration for Children, Youth and Families, U.S. Department of Health and Human Services, published proposed regulations revising the Head Start performance standards (61 FR 17754-17792). At the same time, the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education (Assistant Secretary), published a notice of interpretation (61 FR 17794-17795) in which he indicated that, to meet the requirement in section 1112(c)(1)(H) of Title I, an LEA providing early childhood development services must comply with the proposed Head Start standards in § 1304.21—Education and Early Childhood Development.

Section 1304.21 is published in final elsewhere in this issue of the Federal Register. Consistent with the Assistant Secretary's prior notice of interpretation, the performance standards in that section apply to early childhood development services under Title I, Part A. Cross-references in § 1304.21 to other sections of the Head Start performance standards do not make those sections applicable to early childhood development services under Title I, Part A.

As the preamble of the final Head Start performance standards indicates, those standards, including § 1304.21, will take effect on January 1, 1998. The Associate Commissioner of the Head Start Bureau selected this date in response to comments from Head Start grantees that sufficient lead time was needed to implement changes necessitated by the revised performance standards. Section 1112(c)(1)(H) of Title

I, however, requires an LEA to comply with Head Start performance standards beginning with fiscal year 1997 Title I, Part A funds—that is, funds appropriated for use in the 1997-98 school year. Thus, an LEA would have to comply with Head Start performance standards before the newly revised § 1304.21 takes effect.

To afford maximum flexibility to LEAs in designing and implementing early childhood development services under Title I, Part A during the 1997-98 school year, the Assistant Secretary offers the following interpretation of section 1112(c)(1)(H) of Title I. Although § 1304.21 will not be effective until January 1, 1998, an LEA that complies with the performance standards in that section in providing early childhood development services under Title I, Part A prior to January 1, 1998 will satisfy the requirement in section 1112(c)(1)(H) of Title I. In the alternative, during the 1997-98 school year, an LEA may comply with the comparable current Head Start performance standards that will remain in effect until January 1, 1998. Those comparable standards are contained in 45 CFR 1304.2-1—1304.2-3 (1995).

**Waiver of Rulemaking**

In accordance with the Administrative Procedure Act (APA) (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. However, under section 553(b)(A) of the APA, the Secretary is not required to offer the public an opportunity to comment on an interpretive rule that merely advises the public of the Department's construction of a statute that it administers. Because this notice concerns an interpretation with respect to section 1112(c)(1)(H) of Title I, public comment, pursuant to 5 U.S.C. 553(b)(A), is unnecessary.

(Catalog of Federal Domestic Assistance Number 84.010, Improving Programs Operated by Local Educational Agencies)

Dated: October 28, 1996.

Gerald N. Tirozzi,

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 96-28135 Filed 11-4-96; 8:45 am]

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Tuesday  
November 5, 1996

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**Part V**

**Office of  
Management and  
Budget**

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**Audits of States, Local Governments, and  
Non-Profit Organizations; Notice**

## OFFICE OF MANAGEMENT AND BUDGET

### Audits of States, Local Governments, and Non-Profit Organizations

**AGENCY:** Office of Management and Budget.

**ACTION:** Proposed revision of OMB Circular No. A-133 and proposed rescission of OMB Circular No. A-128.

**SUMMARY:** This Notice offers interested parties an opportunity to comment on further proposed revisions to Office of Management and Budget (OMB) Circular No. A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," and the proposed consolidation of OMB Circular No. A-128, "Audits of State and Local Governments," into Circular No. A-133 (with Circular A-128 being rescinded). This Notice also requests comment on two proposed information collections contained in the proposed revision to Circular A-133. These actions are being proposed to implement the Single Audit Act Amendments of 1996 (1996 Amendments), which were signed into law on July 5, 1996 (Public Law 104-156).

In the proposed revisions to Circular A-133, as published in the Federal Register on March 17, 1995 (60 FR 14594), OMB stated an intent to seek modifications to the Single Audit Act of 1984 (1984 Act) and, upon passage, extend the provisions of Circular A-133 to include audits of States and local governments and then rescind Circular A-128. (Indian tribal governments are included under the definition of States and are covered under the 1984 Act, Circular A-128, the 1996 Amendments, and this proposed revision.) The April 1996 revision of Circular A-133 was coordinated with the 1996 Amendments such that only minimum changes are now necessary to include States and local governments under Circular A-133. When States and local governments are covered under Circular A-133, OMB will rescind Circular A-128.

Interested parties may wish to refer to the March 17, 1995, and April 30, 1996, Federal Register (61 FR 19134) for a more detailed discussion of the changes made during the recent revisions to Circular A-133.

**DATES:** All comments on this proposal should be in writing, and must be received by January 6, 1997. Late comments will be considered to the extent practicable.

**ADDRESSES:** Comments should be mailed to Office of Management and Budget, Office of Federal Financial Management, Financial Standards and

Reporting Branch, Room 6025, New Executive Office Building, Washington, DC 20503. Where possible, comments should reference applicable paragraph or section numbers in the proposed revision. When comments are sent in by facsimile (fax), they should be faxed to (202) 395-4915. Electronic mail comments may be submitted via Internet to CONLEY\_S@A1.EOP.GOV. Please include the full body of electronic mail comments in the text of the message and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message.

To facilitate conversion of the comments into a computer format for analysis, it would be helpful if respondents send a copy of comments on either a 3.5 or 5.25 inch diskette in either WordPerfect 5.1, WordPerfect for Windows, or ASCII format. When a diskette cannot be provided, it would be helpful if the comments were printed in pica or an equivalent 10 characters per inch type on white paper so the document can be easily scanned into a computer format.

A copy of the current Circulars A-128 and A-133 may be obtained from the OMB fax information line, 202-395-9068, document numbers 1128 and 1133, respectively, or by writing or calling the Office of Administration, Publications Office, Room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332. Also, Circular A-133 and this proposed revision are available on the OMB home page on the internet which is currently located at <http://www.whitehouse.gov/WH/EOP/OMB/html/ombhome.html>.

**FOR FURTHER INFORMATION CONTACT:** Sheila O. Conley, Office of Federal Financial Management (OFFM), Financial Standards and Reporting Branch, OMB telephone (202) 395-3993 and fax (202) 395-4915. A redlined/strikeout version showing the detailed changes between the recently revised OMB Circular A-133 and the further proposed revision is available by written request to OFFM.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Single Audit Act Amendments of 1996 (Pub. L. 104-156), the proposed revision requires non-Federal entities (States, local governments, and non-profit organizations) expending \$300,000 or more in a year in Federal awards to have an audit, sets forth requirements for both the performance and reporting of this audit, and provides for follow-up on audit findings. Each non-Federal entity is responsible for having its audit conducted and ensuring that subrecipients expending \$300,000

or more in a year meet the audit requirements of Office of Management and Budget (OMB) Circular A-133 which will be renamed "Audits of States, Local Governments, and Non-Profit Organizations."

Significant Changes from Circular A-128 to Circular A-133

The Single Audit Act Amendments of 1996, signed by the President on July 5, 1996, called for uniform requirements for audits of all types of organizations. As a consequence, OMB proposes to co-locate requirements for States, local governments, and non-profit organizations in Circular A-133, which currently addresses only non-profit organizations. At the same time, OMB would rescind Circular A-128, "Audits of State and Local Governments," which currently specifies audit requirements for States and local governments.

The April 1996 revision of Circular A-133 includes the following major changes which are not reflected in Circular A-128 issued April 12, 1985:

- (1) increased the threshold that triggers an audit requirement under the Circular from \$25,000 to \$300,000 (\$ \_\_.200(a));
- (2) prescribed a risk-based approach to determine major programs (\$ \_\_.520);
- (3) required a minimum major program coverage of 50 percent (25 percent for low-risk auditees) of Federal awards expended (\$ \_\_.520(f));
- (4) clarified the required level of internal control testing (\$ \_\_.500(c));
- (5) provided minimum reporting requirements for the schedule of expenditures of Federal awards (\$ \_\_.310(b));
- (6) required auditees to prepare a summary schedule of prior audit findings (\$ \_\_.315) and a data collection form (\$ \_\_.320(b));
- (7) required auditors to report audit findings and questioned costs in a single schedule, including a summary of the auditor's results (\$ \_\_.505(a)(4));
- (8) prescribed criteria for reporting audit findings and questioned costs (\$ \_\_.510);
- (9) modified the method of determining the cognizant agency for audit (\$ \_\_.400(a));
- (10) after a two-year transition period, precluded the same auditor from preparing the indirect cost proposal or cost allocation plan when indirect costs exceeded \$1 million in the prior year (\$ \_\_.305(b));
- (11) after a two-year transition period, shortened the due date for submitting reports from 13 months to nine months (\$ \_\_.320(a));
- (12) streamlined the report submission process and expanded the

role of the Federal clearinghouse (§ \_\_.320);

(13) changed the basis for determining the amount of Federal awards administered by the non-Federal entity from receipts to expenditures (§ \_\_.200);

(14) provided guidance for conducting program-specific audits (§ \_\_.235); and,

(15) reorganized the Circular into a "common rule" format to facilitate codification by Federal agencies and improve the presentation of information included in the Circular.

#### Significant Proposed Revisions to Circular A-133

The most significant difference between this proposed revision and the recently revised Circular A-133 is the inclusion of States and local governments. This proposed revision also includes changes relating to the effective date (31 U.S.C. 7507), the provisions permitting biennial audits in limited circumstances (31 U.S.C. 7502(b)(2) and (3)), and the allowability of audit costs (31 U.S.C. 7505(b)(1)(A)(ii)) to conform the April 1996 revision of Circular A-133 to the 1996 Amendments. Aside from these changes, the 1996 Amendments do not require other substantive changes to Circular A-133.

The following discussion is provided to describe the changes needed to conform this proposed revision with the 1996 Amendments, solicit input from interested parties, and summarize some of the other changes included in this proposed revision. The readers' attention is directed to section D. Proposed Requirement for the Auditor to Prepare and Sign the Data Collection Form Required by Circular A-133, because it is particularly important to OMB that commenters provide views on the matters discussed in this section.

#### A. Effective Dates

The 1996 Amendments apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996 (31 U.S.C. 7507). Changes are proposed in paragraph 10 of the Circular, "Effective Dates," to reflect the effective dates mandated in the 1996 Amendments.

Inquirers asked which circular applies for biennial audits when the biennial period includes time before and after the effective date of the proposed revision. The 1996 Amendments do not specifically address the effective dates for biennial audits. OMB interprets the 1996 Amendments to be effective for any biennial periods which begin after June 30, 1996. As with annual audits, the prior circulars are in effect until this proposed revision is effective.

Therefore, a non-Federal entity which elects a biennial audit and has a biennial period beginning on or before June 30, 1996, should apply the provisions of Circular A-128 issued April 12, 1985 (for a State or local government) or Circular A-133 issued March 8, 1990 (for a non-profit organization), as applicable. The requirements of this proposed revision apply to any biennial periods beginning after June 30, 1996.

Circular A-133 shortened the report due date from 13 months to nine months after the end of the audit period (§ \_\_.320(a)). However, the 1996 Amendments (31 U.S.C. 7502(h)) provide for a transition period of at least two years during which the report due date would remain at 13 months. The proposed revision at § \_\_.320(a) incorporates this transition period such that the due date of nine months after the end of the audit period is not effective until audits of fiscal years beginning after June 30, 1998. Cognizant or oversight agencies may still provide extensions.

Paragraphs 6 and 10 of the April 1996 revision of Circular A-133 instructed Federal agencies to adopt the standards set forth in the Circular in codified regulations not later than November 30, 1996. As a result of the 1996 Amendments, the April 1996 revision of Circular A-133, which applies only to non-profit organizations, will not become operable unless this proposed revision is not finalized by June 30, 1997 (i.e., OMB expects that Circular A-133 issued March 8, 1990, will apply to non-profit organizations and Circular A-128 issued April 12, 1985, will apply to States and local governments prior to the effective dates of the 1996 Amendments, and this proposed revision will apply to these types of organizations when the 1996 Amendments become effective).

Therefore, Federal agencies may forgo the requirement under the April 1996 revision of Circular A-133 to adopt the standards set forth in the Circular in codified regulations not later than November 30, 1996. However, the 1996 Amendments (31 U.S.C. 7505(a)) require each Federal agency to promulgate such revisions to its regulations as may be necessary to conform such regulations to the requirements of the 1996 Amendments and OMB implementing guidance. Accordingly, the proposed revision includes a provision in paragraphs 6 and 10 of the Circular whereby Federal agencies shall adopt the standards set forth in the Circular in codified regulations not later than six months after publication of the final revision in the Federal Register.

#### B. Biennial Audits in Limited Circumstances

Changes are proposed at § \_\_.220 to permit biennial audits in limited circumstances in accordance with the 1996 Amendments. The provisions in the 1996 Amendments which allow non-Federal entities to elect a biennial audit are very specific (31 U.S.C. 7502(b)(2) and (3)). For a State or local government to qualify for a biennial audit election, there must be a *requirement* (as opposed to authorization) in a State's constitution or State or local law which was in effect on January 1, 1987. Also, this *requirement* must still be in effect. Only non-profit organizations that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, may elect a biennial audit. OMB expects that very few States, local governments, or non-profit organizations meet this criteria. Nonetheless, all auditees are encouraged to have annual audits which provide increased accountability.

The April 1996 revision of Circular A-133 includes a provision whereby a Federal agency or pass-through agency may allow a non-profit organization that elects a program-specific audit under § \_\_.200(c) to perform the audit every two years. This provision was removed from the proposed revision to conform with the biennial audit requirements specified in the 1996 Amendments.

Changes are also proposed at § \_\_.520 and § \_\_.530(a) to the major program determination process and the criteria for low-risk auditee for situations which are unique to single audits which are performed on a biennial basis.

#### C. Audit Costs Prohibited for Subrecipients With Federal Awards Expended of Less Than \$300,000 Annually

The 1996 Amendments discourage pass-through entities from requiring single audits of subrecipients with total Federal awards expended of less than \$300,000 annually. This is done by prohibiting charges to Federal awards for audit costs under these circumstances (31 U.S.C. 7505(b)(1)(A)(ii)). However, pass-through entities are not prohibited from charging subrecipient monitoring costs, provided those procedures are of lesser scope than a single audit.

For example, if a pass-through entity requires a subrecipient which expends less than \$300,000 annually in total Federal awards to have a single audit conducted in accordance with the 1996 Amendments, this audit must be paid for with other than Federal funds.

However, the 1996 Amendments do not prohibit charging Federal awards for limited scope audits and other subrecipient monitoring procedures.

Pass-through entities would need to make appropriate changes in their agreements with subrecipients to reflect that audits will no longer be required for non-Federal entities with total Federal awards expended of less than \$300,000 annually. Pass-through entities will need to review their overall subrecipient monitoring process, and decide what, if any, additional monitoring procedures may be necessary to ensure subrecipient compliance. Monitoring procedures, which include limited scope audits, can be more targeted and less costly than a full Circular A-133 audit. Subrecipient monitoring procedures include: on-site visits, reviews of documentation supporting requests for reimbursement, limited scope audits of specific compliance areas (e.g., eligibility determinations made by subrecipients), and financial statement audits in accordance with generally accepted government auditing standards. A pass-through entity should consider the cost-effectiveness of monitoring procedures compared to the relative size and complexity of the Federal awards administered by subrecipients in determining the appropriateness of monitoring procedures.

#### *D. Proposed Requirement for the Auditor To Prepare and Sign the Data Collection Form Required by Circular A-133*

To streamline the distribution of audit reports and improve the governmentwide collection and analysis of single audit results, Circular A-133 provides for a machine-readable form (§ \_\_.320(b)) to be prepared at the completion of each audit and submitted to the Federal clearinghouse designated by OMB and pass-through entities. The data collection form will provide key information about the non-Federal entity, the Federal awards it administers, and the audit results. It will serve as the basis for developing a governmentwide database on covered Federal awards administered by non-Federal entities. The April 1996 revision of Circular A-133 provides for a data collection form to be submitted to the Federal clearinghouse and each pass-through entity in lieu of sending the full single audit reporting package when there are no audit findings.

The April 1996 revision of Circular A-133 requires the auditee's management to prepare the data collection form. Many auditees are concerned about the additional burden this reporting requirement would place

on them. A more efficient and effective method could be to have the auditor prepare the form and sign it as preparer. OMB believes this would not significantly increase audit costs, since most of the information requested on the form will be obtained directly from the schedule of expenditures of Federal awards and the auditor's reports. Since the auditor is most knowledgeable about the audit results, OMB expects that it will be efficient for the auditor to simply prepare the form at the completion of the audit. Also, OMB believes that the incremental legal exposure faced by the auditor as a result of signing the form can be minimized by restricting its use to the Federal clearinghouse and pass-through entities for the sole purpose of data collection and so stating on the form. Under this method, the auditee would continue to be required to provide assurance to the Federal Government and pass-through entities that the auditee engaged an auditor to conduct an audit in accordance with the Circular, that the audit was completed, and that the information included on the form is accurate.

OMB believes that the auditor's association with the data collection form will add value to its usefulness, reduce the need for Federal awarding agencies and pass-through entities to perform unnecessary verification procedures, improve the accuracy of the governmentwide database, streamline the single audit report submission process, and reduce burden on auditees.

Therefore, OMB is considering adding a provision that requires the auditor to prepare the data collection form and sign it. If this change is made, OMB will work with the auditing profession and other interested parties to develop any necessary revisions to the form. Respondents are encouraged to comment on this change, including: Whether the auditor should prepare and sign the data collection form; what would be the estimated cost of the auditor's performing this service; whether it would be beneficial to auditees, Federal agencies, and pass-through entities; and, whether there are concerns over litigation exposure.

The name of the certification form required under § \_\_.320(b) of the April 1996 revision of Circular A-133 is changed to "Data Collection Form" in the proposed revision to more appropriately characterize the nature of the information request. This name change also affects § \_\_.235(c)(2), § \_\_.235(c)(3), § \_\_.320(c), § \_\_.320(e)(i), and § \_\_.320(h).

#### *E. Audit Coverage Over the Allowability of Charges to Cost Pools*

Changes are proposed at § \_\_.500(c), § \_\_.500(d), § \_\_.505(b), § \_\_.505(c), and § \_\_.510(a) to clarify the auditor's responsibility for testing and reporting on the allowability of costs charged to cost pools: (1) used to support an indirect cost rate, or (2) allocated through a State/local-wide central service cost allocation plan (as fully described in Appendix C of Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments," issued May 4, 1995 (60 FR 26484), and hereinafter referred to as a "cost allocation plan"). The proposed language is added to address the timing of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan. Indirect cost rates are based on costs incurred in a base period and applied prospectively. Costs allocated through a cost allocation plan are based on the actual costs incurred in two previous years.

Because it would not be practical to perform such tests retroactively, the auditor is expected to perform tests of costs charged to cost pools during the period that the actual costs were incurred, rather than during the period in which the rate was applied or in which the costs were allocated. For example, if the actual costs charged to cost pools for 1997 form the basis for the indirect cost proposal and the final negotiated indirect cost rate that will be applied in 1998 and 1999, then the auditor should test actual costs charged to cost pools during 1997 as part of the 1997 audit, since 1997 is the base year. The auditor would not be expected to test such costs as part of the 1998 and 1999 audits.

#### *F. Pilot Project Authority*

The 1996 Amendments (31 U.S.C. 7502(j)) authorize OMB, in consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives, to approve pilot projects to test alternative methods of achieving the purposes of the 1996 Amendments. Such pilot projects, which would be voluntary undertakings by non-Federal entities, would provide a means of assessing new ways of testing and reporting on Federal awards.

Suggestions from auditees for pilot projects should be submitted first to Federal funding agencies. If a Federal agency concludes that a suggested pilot project has merit, the Federal agency

may present the suggestion to OMB for consideration. OMB will consult with the appropriate members of the House and Senate prior to authorizing any pilot projects under the 1996 Amendments.

#### *G. Other Changes To Comply With the 1996 Amendments*

The revision proposes the following other changes to comply with the 1996 Amendments and include States and local governments under Circular A-133.

(1) Retitles the Circular to include States and local governments. States and local governments were also added to paragraph 1 of the Circular.

(2) Deletes the references to Circular A-128 from paragraph 4 of the Circular and sections § \_\_.105 and § \_\_.400(d)(4) of the attachment.

(3) Changes definitions in § \_\_.105 of "Federal award" "Federal financial assistance" "Federal program" "internal control" "internal control pertaining to the compliance requirements over Federal programs" "pass-through entity" and "subrecipient" to conform with the definitions included in the 1996 Amendments.

(4) Adds definitions in § \_\_.105 for the terms "Indian tribe," "local government," and "State," which are defined terms in the 1996 Amendments.

(5) Adds definitions in § \_\_.105 for the term "non-Federal entity" and replaces the term "non-profit organization" with "non-Federal entity" in paragraphs 4, 6, and 10 of the Circular and sections § \_\_.100, § \_\_.105, § \_\_.200(d), § \_\_.205(a), and § \_\_.205(h) of the attachment.

(6) Replaces the term "non-profit organization" with "subrecipient" in § \_\_.205(i).

(7) Adds "full" as a modifier of cost in § 7.215(b).

(8) Changes title of schedule in § \_\_.235(b)(2) to "schedule of expenditures of Federal awards."

(9) Changes title of "central clearinghouse" to "Federal clearinghouse" in § \_\_.235(c)(2), § \_\_.235(c)(3), § \_\_.300(e), § \_\_.315(b)(4)(i), § \_\_.320(b), § \_\_.320(d), § \_\_.320(g), § \_\_.320(h), § \_\_.320(i), and § \_\_.320(j).

(10) Adds reference to Grants Management Common Rule in § \_\_.305(a).

(11) Drops "non-profit" as a modifier to pass-through entity and subrecipients in § \_\_.400(d) and § \_\_.400(d)(4), respectively.

(12) Adds a provision to cover a series of audits in § \_\_.500(a).

(13) Changes the schedule of findings and questioned costs (§ \_\_.505(d)) to

include information from the audit of the financial statements performed in accordance with generally accepted government auditing standards. Consistency changes were made to § \_\_.235(b)(4)(iv) for program-specific audits.

(14) Drops from § \_\_.520(b)(3) the reference to insurance programs because insurance programs are not specifically cited in the 1996 Amendments.

#### *H. Other Changes*

The revision proposes the following detailed changes.

(1) Adds to § \_\_.235(c)(3) a requirement that one copy of the data collection form prepared in accordance with § \_\_.320(b) be submitted to each pass-through entity.

(2) Adds to § \_\_.320(b) a requirement that the auditee identify the cognizant or oversight agency for audit on the data collection form.

(3) Changes the requirement in § \_\_.400(a)(4) for the cognizant agency for audit to report to other Federal agencies any direct reporting of irregularities and illegal acts.

(4) Simplifies the summary of the auditor's results in § \_\_.505 by removing the requirement for a statement concerning the auditee's ability to continue as a going concern and consolidating the reporting of audit findings which were not reportable conditions or material non-compliance.

(5) Adds to the definition of audit findings reported (§ \_\_.510(a)(4)) known questioned costs greater than \$10,000 for Federal programs which are not audited as major programs. Consistent with this, adds in § \_\_.520(c) a reference to this requirement.

(6) Removes from § \_\_.510(a)(6) the definition of fraud because this term is the same as in professional auditing standards.

(7) Adds in § \_\_.520(d) and § \_\_.520(e) an option to allow an auditor to minimize the risk assessment required for Type B programs under certain circumstances.

(8) Adds in § \_\_.520(e) a statement to encourage auditors to use an approach in identifying high-risk Type B program which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

#### *I. Changes for Clarity*

The revision proposes the following changes for clarity.

(1) Changes the title of the Circular to use the term "non-profit organizations" in lieu of the phrase "institutions of higher education and other non-profit institutions" since non-profit

organization is the defined term (§ \_\_.105) which includes non-profit institutions of higher education.

(2) Changes the definitions in § \_\_.105 of cluster of programs and Federal programs to clarify that research and development (R&D) and student financial aid (SFA) are types of clusters of programs. Based upon this change, the phrase "category of programs" was replaced with "cluster of programs" in § \_\_.105, § \_\_.310(b)(6), § \_\_.320(b). Moves discussion of State governments combining funding from definition of Federal programs to definition of cluster of programs in § \_\_.105. Adds to § \_\_.105 emphasis that when a State designates a cluster of programs, the State must identify the Federal awards and advise subrecipients of the applicable compliance requirements.

(3) Replaces the reference to "Federal expenditures" with "Federal awards expended" in § \_\_.200(d), § \_\_.310(b)(2), § \_\_.310(b)(6), § \_\_.310(b)(7), § \_\_.520(b)(1), § \_\_.520(d)(2), § \_\_.520(f), § \_\_.525(d)(4), § \_\_.530(d)(3).

(4) For consistency with the format of the effective date of the Circular, changes the date format from fiscal years "ending" to fiscal years "beginning" in § \_\_.305(b).

(5) Clarifies in § \_\_.315(b) that follow-up on prior audit findings is concerned with those relative to Federal awards as opposed to those relative to the financial statements of the entity.

(6) Clarifies in § \_\_.500(a) that the entity's financial statements and schedule of expenditures of Federal awards must be for the same fiscal year.

(7) Replaces in § \_\_.500(c) the term "achieve" with "support."

(8) Clarifies in § \_\_.510(a)(2) that this reporting only relates to major programs and removes discussion relating to auditor conclusions which is included in generally accepted government auditing standards.

(9) Clarifies in § \_\_.510(a)(5) and § \_\_.510(a)(6) that the reference to the schedule of findings and questioned costs is to the part of the schedule that deals with Federal awards.

(10) Changes the term "50 percent rule" to "percentage of coverage rule" in § \_\_.520(d)(2), § \_\_.520(e)(3), § \_\_.520(f), § \_\_.520(i).

(11) Clarifies in § \_\_.530(d) that this provision applies for either of the preceding two years in which the program was classified as a Type A program.

#### *Information Collection Activity Under OMB Review*

In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35 *et seq.*), this notice requests comment on

the following two proposed information collections contained in this proposed revision. The information collection request involves two types of entities: (1) Reports from auditors to auditees concerning audit results, audit findings, and questioned costs; and, (2) reports from auditees to the Federal Government providing information about the auditees, the awards they administer, and the audit results. The proposed revision specifies what auditors are required to report to auditees, under § 235(b)(4), for program-specific audits, and § 505, "Audit Reporting," for single audits. The proposed revision also specifies what auditees are required to report to the Federal clearinghouse designated by OMB and pass-through entities, if applicable, under § 235(c), for program-specific audits, and § 320, "Report Submission," for single audits.

The information collection requests included in this proposal would result in a decrease in overall reporting burden. Although the reporting burden per audit will increase under this proposal from 26 to 34 hours (described in the following paragraphs), fewer entities will be subject to the reporting requirements as a result of the proposal to increase the threshold that triggers an audit requirement under the Circular from \$25,000 to \$300,000. Based on available information, OMB estimates that approximately 25,000 non-Federal entities would be subject to the information collection requirement included in this proposal; whereas, approximately 35,000 non-Federal entities are subject to the current requirements under Circulars A-128 and A-133. The overall reporting burden currently approximates 910,000 hours (35,000 non-Federal entities at 26 hours per audit). Under the proposal, the overall reporting burden would be approximately 850,000 hours (25,000 non-Federal entities at 34 hours per audit), or 60,000 hours less than the current reporting burden. In addition, as more fully discussed below, there is an opportunity to reduce further the overall reporting burden under the proposal from 850,000 to 800,000 hours by having auditors, rather than auditees, prepare the data collection form discussed below.

Congress intended to improve the contents of single audit reports to make them more useful by enacting the 1996 Amendments. OMB believes that the increase in reporting burden per audit is warranted because several changes included in the proposed revision would improve the usefulness and effectiveness of single audit reporting

with respect to information provided by both auditors and auditees.

OMB estimates that reporting by *auditors* currently takes approximately 10 hours on the average per audit under Circulars A-128 and A-133, and will take 14 hours under the proposal. The estimated increase of 4 hours of reporting burden per audit on *auditors* is due primarily to a provision in the 1996 Amendments (31 U.S.C. 7502(g)(2)) which requires the auditor, for the first time, to prepare a summary of audit results. In its report on the 1996 Amendments, the Committee on Government Reform and Oversight stated that "the complexity of the reports makes it difficult for the average reader to understand what has been audited and reported ... A summary of the audit results would highlight important information and thus enable users to quickly discern the overall results of an audit" (H.R. Report 104-607, page 18).

OMB estimates that reporting by *auditees* currently takes approximately 16 hours on the average per audit under Circulars A-128 and A-133, and will take 20 hours under the proposal. The estimated increase of 4 hours of reporting burden per audit on *auditees* is due primarily to a proposed requirement whereby management would prepare two new documents to improve the usefulness of single audit reports.

The first of these reports is a summary schedule of prior audit findings which will provide the current status of previously reported audit findings until such findings are corrected. This information, which is important to Federal funding agencies and pass-through entities, is currently required under Circulars A-128 and A-133 but it is not consistently provided in single audit reports. As a result, Federal funding agencies and pass-through entities frequently request this type of information long after a finding is reported, which results in additional burden on Federal agencies, auditees, and auditors. The proposed requirements provide additional guidance to auditees on where and how to present information regarding prior audit findings. While additional time may be required up-front for certain auditees to prepare the summary schedule of prior audit findings, the reporting burden for such entities should be offset by the elimination of the inefficiencies caused by the current practice of having to retrieve and provide information after-the-fact on old audit findings.

The second report management would be required to prepare is the "Data

Collection Form" prescribed in § 320(b) of the proposed revision and discussed previously in Section D (Proposed Requirement for the Auditor to Prepare and Sign the Data Collection Form Required by Circular A-133). The data collection form will facilitate streamlining the report distribution process and improve the governmentwide collection and analysis of single audit results.

OMB believes that the overall reporting burden under the proposed revision could be further reduced by having the auditor prepare the data collection form. Specifically, OMB estimates that if *auditors*, rather than *auditees*, prepare the data collection form then the estimate of reporting burden on auditors would *increase* by two hours (that is, from 14 hours to 16 hours), and the estimate of reporting burden on auditees would *decrease* by four hours (that is, from 20 hours to 16 hours) per audit under the proposal. This would result in a *net* decrease of 2 hours per audit, or 50,000 hours in overall reporting burden (25,000 non-Federal entities at 2 hours savings per audit). As a result of having auditors, rather than auditees, prepare the data collection form, overall reporting burden could be reduced from 850,000 to 800,000 hours.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agencies, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including use of automated collection techniques or other forms of information technology. G. Edward DeSeve, Controller.

1. OMB proposes to rescind Circular A-128 upon issuance of a revised Circular A-133 that covers States and local governments.

2. OMB proposes to revise Circular A-133 to read as follows:

To the Heads of Executive Departments and Establishments

Subject: Audits of States, Local Governments, and Non-Profit Organizations

1. *Purpose.* This Circular is issued pursuant to the Single Audit Act of 1984, Public Law 98-502, and the Single Audit Act Amendments of 1996, Public Law 104-156. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local

governments, and non-profit organizations expending Federal awards.

2. *Authority.* Circular A-133 is issued under the authority of sections 503, 1111, and 7501 *et seq.* of title 31, United States Code, and Executive Orders 8248 and 11541.

3. *Rescission and Supersession.* This Circular rescinds Circular A-128, "Audits of State and Local Governments," issued April 12, 1985, and supersedes the prior Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," issued April 22, 1996. For effective dates, see paragraph 10.

4. *Policy.* Except as provided herein, the standards set forth in this Circular shall be applied by all Federal agencies. If any statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the statute shall govern.

Federal agencies shall apply the provisions of the sections of this Circular to non-Federal entities, whether they are recipients expending Federal awards received directly from Federal awarding agencies, or are subrecipients expending Federal awards received from a pass-through entity (a recipient or another subrecipient).

This Circular does not apply to non-U.S. based entities expending Federal awards received either directly as a recipient or indirectly as a subrecipient.

5. *Definitions.* The definitions of key terms used in this Circular are contained in § \_\_\_\_\_.105 in the Attachment to this Circular.

6. *Required Action.* The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in the Attachment to this Circular. Federal agencies making awards to non-Federal entities, either directly or indirectly, shall adopt the language in the Circular in codified regulations as provided in Section 10 (below), unless different provisions are required by Federal statute or are approved by OMB.

7. *OMB Responsibilities.* OMB will review Federal agency regulations and implementation of this Circular, and will provide interpretations of policy requirements and assistance to ensure uniform, effective and efficient implementation.

8. *Information Contact.* Further information concerning Circular A-133 may be obtained by contacting the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Washington, DC 20503, telephone (202) 395-3993.

9. *Review Date.* This Circular will have a policy review three years from the date of issuance.

10. *Effective Dates.* The standards set forth in § \_\_\_\_\_.400 of the Attachment to this Circular, which apply directly to Federal agencies, shall be effective July 1, 1996, and shall apply to audits of fiscal years beginning after June 30, 1996.

The standards set forth in this Circular that Federal agencies are to apply to non-Federal entities shall be adopted by Federal agencies in codified regulations not later than six months after publication of the final revision in the Federal Register, so that they will

apply to audits of fiscal years beginning after June 30, 1996, with the exception that § \_\_\_\_\_.305(b) of the Attachment applies to audits of fiscal years beginning after June 30, 1998. In the interim period, until the standards in this Circular are adopted and become applicable, the audit provisions of Circular A-128 issued April 12, 1985, and Circular A-133, issued April 22, 1996, shall continue in effect.

Franklin D. Raines,  
Director.

Attachment

## PART \_\_\_\_—AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

### Subpart A—General

Sec.

- \_\_\_\_\_.100 Purpose.
- \_\_\_\_\_.105 Definitions.

### Subpart B—Audits

- \_\_\_\_\_.200 Audit requirements.
- \_\_\_\_\_.205 Basis for determining Federal awards expended.
- \_\_\_\_\_.210 Subrecipient and vendor determinations.
- \_\_\_\_\_.215 Relation to other audit requirements.
- \_\_\_\_\_.220 Frequency of audits.
- \_\_\_\_\_.225 Sanctions.
- \_\_\_\_\_.230 Audit costs.
- \_\_\_\_\_.235 Program-specific audits.

### Subpart C—Auditees

- \_\_\_\_\_.300 Auditee responsibilities.
- \_\_\_\_\_.305 Auditor selection.
- \_\_\_\_\_.310 Financial statements.
- \_\_\_\_\_.315 Audit findings follow-up.
- \_\_\_\_\_.320 Report submission.

### Subpart D—Federal Agencies and Pass-Through Entities

- \_\_\_\_\_.400 Responsibilities.
- \_\_\_\_\_.405 Management decision.

### Subpart E—Auditors

- \_\_\_\_\_.500 Scope of audit.
- \_\_\_\_\_.505 Audit reporting.
- \_\_\_\_\_.510 Audit findings.
- \_\_\_\_\_.515 Audit working papers.
- \_\_\_\_\_.520 Major program determination.
- \_\_\_\_\_.525 Criteria for Federal program risk.
- \_\_\_\_\_.530 Criteria for a low-risk auditee.

### Subpart A—General

#### § \_\_\_\_\_.100 Purpose.

This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

#### § \_\_\_\_\_.105 Definitions.

*Auditee* means any non-Federal entity that expends Federal awards which must be audited under this part.

*Auditor* means an auditor that is a public accountant or a Federal, State or local government audit organization, which meets the general standards

specified in generally accepted government auditing standards (GAGAS). The term *auditor* does not include internal auditors of non-profit organizations.

*Audit finding* means deficiencies which the auditor is required by § \_\_\_\_\_.510(a) to report in the schedule of findings and questioned costs.

*CFDA number* means the number assigned to a Federal program in the *Catalog of Federal Domestic Assistance* (CFDA).

*Cluster of programs* means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other clusters" are as defined by the Office of Management and Budget (OMB) in the compliance supplements or as designated by a State for Federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State shall identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with § \_\_\_\_\_.400(d)(1) and § \_\_\_\_\_.400(d)(2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in § \_\_\_\_\_.520, and, with the exception of R&D as described in § \_\_\_\_\_.200(c), whether a program-specific audit may be elected.

*Cognizant agency for audit* means the Federal agency designated to carry out the responsibilities described in § \_\_\_\_\_.400(a).

*Compliance supplements* refers to the *Compliance Supplement for Audits of Institutions of Higher Learning and Other Non-Profit Institutions* and the *Compliance Supplement for Single Audits of State and Local Governments* or such documents as OMB or its designee may issue to replace them. These documents are available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, telephone (202) 512-1800.

*Corrective action* means action taken by the auditee that:

- (1) Corrects identified deficiencies;
- (2) Produces recommended improvements; or
- (3) Demonstrates that audit findings are either invalid or do not warrant auditee action.

*Federal agency* has the same meaning as the term *agency* in Section 551(1) of title 5, United States Code.

*Federal award* means Federal financial assistance and Federal cost-

reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the terms and conditions of the contract. Contracts to operate Federal Government owned, contractor operated facilities (GOCOs) are excluded from the requirements of this part.

*Federal awarding agency* means the Federal agency that provides an award directly to the recipient.

*Federal financial assistance* means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance, but does not include amounts received as reimbursement for services rendered to individuals as described in § \_\_\_\_\_.205(h) and § \_\_\_\_\_.205(i).

*Federal program* means:

(1) All Federal awards to a non-Federal entity assigned a single number in the CFDA.

(2) When no CFDA number is assigned, all Federal awards from the same agency made for the same purpose should be combined and considered one program.

(3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:

(i) Research and development (R&D);  
(ii) Student financial aid (SFA); and  
(iii) "Other clusters," as described in the definition of cluster of programs in this section.

*GAGAS* means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

*Generally accepted accounting principles* has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA).

*Indian tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*Internal control* means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(1) Effectiveness and efficiency of operations;  
(2) Reliability of financial reporting; and  
(3) Compliance with applicable laws and regulations.

*Internal control pertaining to the compliance requirements for Federal programs* (Internal control over Federal programs) means a process—effected by an entity's management and other personnel—designed to provide reasonable assurance regarding the achievement of the following objectives for Federal programs:

(1) Transactions are properly recorded and accounted for to:

(i) Permit the preparation of reliable financial statements and Federal reports;  
(ii) Maintain accountability over assets; and  
(iii) Demonstrate compliance with laws, regulations, and other compliance requirements;

(2) Transactions are executed in compliance with:

(i) Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and  
(ii) Any other laws and regulations that are identified in the compliance supplements; and

(3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

*Loan* means a Federal loan or loan guarantee received or administered by a non-Federal entity.

*Local government* means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

*Major program* means a Federal program determined by the auditor to be a major program in accordance with § \_\_\_\_\_.520 or a program identified as a major program by a Federal agency or pass-through entity in accordance with § \_\_\_\_\_.215(c).

*Management decision* means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

*Non-Federal entity* means a State, local government, or non-profit organization.

*Non-profit organization* means:

(1) any corporation, trust, association, cooperative, or other organization that:  
(i) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;  
(ii) Is not organized primarily for profit; and  
(iii) Uses its net proceeds to maintain, improve, or expand its operations; and  
(2) The term *non-profit organization* includes non-profit institutions of higher education and hospitals.

*OMB* means the Executive Office of the President, Office of Management and Budget.

*Oversight agency for audit* means the Federal awarding agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in § \_\_\_\_\_.400(b).

*Pass-through entity* means a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

*Program-specific audit* means an audit of one Federal program as provided for in § \_\_\_\_\_.200(c) and § \_\_\_\_\_.235.

*Questioned cost* means a cost that is questioned by the auditor because of an audit finding:

(1) Which resulted from a possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;

(2) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

*Recipient* means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

*Research and development (R&D)* means all research activities, both basic and applied, and all development activities that are performed by a non-Federal entity. *Research* is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research

techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. *Development* is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

*Single audit* means an audit which includes both the entity's financial statements and the Federal awards as described in § \_\_\_\_\_.500.

*State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe as defined in this section.

*Student Financial Aid (SFA)* includes those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*), which is administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include programs which provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

*Subrecipient* means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in § \_\_\_\_\_.210.

*Types of compliance requirements* refers to the types of compliance requirements listed in the compliance supplements. Examples include cash management, Federal financial reporting, allowable costs/cost principles, types of services allowed or unallowed, eligibility, and matching.

*Vendor* means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided in § \_\_\_\_\_.210.

## Subpart B—Audits

### § \_\_\_\_\_.200 Audit Requirements.

(a) *Audit required.* Non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in § \_\_\_\_\_.205.

(b) *Single audit.* Non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single audit conducted in accordance with § \_\_\_\_\_.500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) *Program-specific audit election.* When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § \_\_\_\_\_.235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) *Exemption when Federal awards expended are less than \$300,000.* Non-Federal entities that expend less than \$300,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in § \_\_\_\_\_.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

(e) *Federally Funded Research and Development Centers (FFRDC).*

Management of an auditee that owns or operates an FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

### § \_\_\_\_\_.205 Basis for determining Federal awards expended.

(a) *Determining Federal awards expended.* The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-

reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

(b) *Loan and loan guarantees (loans).* Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines shall be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs (c) and (d) of this section:

(1) Value of new loans made or received during the fiscal year; plus  
(2) Balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus

(3) Any interest subsidy, cash, or administrative cost allowance received.

(c) *Loan and loan guarantees (loans) at institutions of higher education.*

When loans are made to students of an institution of higher education but the institution does not make the loans, then only the value of loans made during the year shall be considered Federal awards expended in that year. The balance of loans for previous years is not included as Federal awards expended because the lender accounts for the prior balances.

(d) *Prior loan and loan guarantees (loans).* Loans, the proceeds of which were received and expended in prior years, are not considered Federal awards expended under this part when the laws, regulations, and the provisions of contracts or grant agreements pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) *Endowment funds.* The cumulative balance of Federal awards for endowment funds which are federally restricted are considered awards expended in each year in which the funds are still restricted.

(f) *Free rent.* Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of an award to carry out a Federal program shall be included in determining Federal awards expended and subject to audit under this part.

(g) *Valuing non-cash assistance.* Federal non-cash assistance, such as free rent, food stamps, food commodities, donated property, or

donated surplus property, shall be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

(h) *Medicare*. Medicare payments to a non-Federal entity for providing patient care services to Medicare eligible individuals are not considered Federal awards expended under this part.

(i) *Medicaid*. Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

#### **§ \_\_\_\_\_.210 Subrecipient and vendor determinations.**

(a) *General*. An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) *Federal award*. Characteristics indicative of a Federal award received by a subrecipient are when the organization:

- (1) Determines who is eligible to receive what Federal financial assistance;
- (2) Has its performance measured against whether the objectives of the Federal program are met;
- (3) Has responsibility for programmatic decision making;
- (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
- (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) *Payment for goods and services*. Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- (1) Provides the goods and services within normal business operations;
  - (2) Provides similar goods or services to many different purchasers;
  - (3) Operates in a competitive environment;
  - (4) Provides goods or services that are ancillary to the operation of the Federal program; and
  - (5) Is not subject to compliance requirements of the Federal program.
- (d) *Use of judgment in making determination*. There may be unusual

circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) *For-profit subrecipient*. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) *Compliance responsibility for vendors*. In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

#### **§ \_\_\_\_\_.215 Relation to other audit requirements.**

(a) *Audit under this part in lieu of other audits*. An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits

shall be planned and performed in such a way as to build upon work performed by other auditors.

(b) *Federal agency to pay for additional audits*. A Federal agency that conducts or contracts for additional audits shall, consistent with other applicable laws and regulations, arrange for funding the full cost of such additional audits.

(c) *Request for a program to be audited as a major program*. A Federal agency may request an auditee to have a particular Federal program audited as a major program in lieu of the Federal agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such request by informing the Federal agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in § \_\_\_\_\_.520 and, if not, the estimated incremental cost. The Federal agency shall then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal agency request, and the Federal agency agrees to pay the full incremental costs, then the auditee shall have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

#### **§ \_\_\_\_\_.220 Frequency of audits.**

Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(a) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this part biennially. This requirement must still be in effect for the biennial period under audit.

(b) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.

#### **§ \_\_\_\_\_.225 Sanctions.**

No audit costs may be charged to Federal awards when audits required by this part have not been made or have been made but not in accordance with this part. In cases of continued inability or unwillingness to have an audit

conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

- (a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;
- (b) Withholding or disallowing overhead costs;
- (c) Suspending Federal awards until the audit is conducted; or
- (d) Terminating the Federal award.

#### § \_\_\_\_ .230 Audit costs.

(a) *Allowable costs.* Unless prohibited by law, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR) (48 CFR parts 30 and 31), or other applicable cost principles or regulations.

(b) *Unallowable costs.* A non-Federal entity shall not charge the following to a Federal award:

(1) The cost of any audit under the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 *et seq.*) not conducted in accordance with this part.

(2) The cost of auditing a non-Federal entity which has Federal awards expended of less than \$300,000 per year and is thereby exempted under § \_\_\_\_ .200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its subrecipients in accordance with § \_\_\_\_ .400(d)(3), provided the subrecipient does not have a single audit.

#### § \_\_\_\_ .235 Program-specific audits.

(a) *Program-specific audit guide available.* In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal control, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor should contact the Office of Inspector General of the Federal agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor shall follow GAGAS and the guide when performing a program-specific audit.

(b) *Program-specific audit guide not available.* (1) When a program-specific audit guide is not available, the auditee and auditor shall have basically the same responsibilities for the Federal

program as they would have for an audit of a major program in a single audit.

(2) The auditee shall prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of § \_\_\_\_ .315(b), and a corrective action plan consistent with the requirements of § \_\_\_\_ .315(c).

(3) The auditor shall:

(i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal control and perform tests of internal control over the Federal program consistent with the requirements of § \_\_\_\_ .500(c) for a major program;

(iii) Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements of § \_\_\_\_ .500(d) for a major program; and

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements of § \_\_\_\_ .500(e).

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is presented fairly in all material respects in accordance with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which shall describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct

and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a format consistent with § \_\_\_\_ .505(d)(1) and findings and questioned costs consistent with the requirements of § \_\_\_\_ .505(d)(3).

(c) *Report submission for program-specific audits.* The audit shall be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide. (However, for fiscal years beginning on or before June 30, 1998, auditees shall have 13 months after the end of the audit period to complete the audit and submit the reporting package unless a different period is specified in a program-specific audit guide.) This required reporting shall be submitted within 30 days after the issuance of the auditor's report(s) to the auditee. Unless restricted by law or regulation, the auditee shall make report copies available for public inspection.

(2) When a program-specific audit guide is available, the auditee shall submit to the Federal clearinghouse designated by OMB one copy of the data collection form prepared in accordance with § \_\_\_\_ .320(b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide to be retained as an archival copy. Also, the auditee shall submit to the Federal awarding agency or pass-through entity the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit shall consist of the data collection form prepared in accordance with § \_\_\_\_ .320(b), as applicable to a program-specific audit, the financial statement(s) of the Federal program, a summary schedule of prior audit findings, and a corrective action plan as described in paragraph (b)(2) of this section, and the auditor's report(s) described in paragraph (b)(4) of this section. One copy of this reporting package shall be submitted to the Federal clearinghouse designated by OMB to be retained as an archival copy and one copy of the data collection form prepared in accordance with § \_\_\_\_ .320(b) shall be submitted to each pass-through entity. Also, when the schedule of findings and questioned

costs disclosed audit findings or the summary schedule of prior audit findings reported the status of any audit findings, the auditee shall submit one copy of the reporting package to the Federal clearinghouse on behalf of the Federal awarding agency, or directly to the pass-through entity in the case of a subrecipient.

(d) *Other sections of this part may apply.* Program-specific audits are subject to § \_\_\_\_\_.100 through § \_\_\_\_\_.215(b), § \_\_\_\_\_.220 through § \_\_\_\_\_.230, § \_\_\_\_\_.300 through § \_\_\_\_\_.305, § \_\_\_\_\_.315, § \_\_\_\_\_.320(f) through § \_\_\_\_\_.320(j), § \_\_\_\_\_.400 through § \_\_\_\_\_.405, § \_\_\_\_\_.510 through § \_\_\_\_\_.515, and other referenced provisions of this part unless contrary to the provisions of this section, a program-specific audit guide, or program laws and regulations.

### Subpart C—Auditees

#### § \_\_\_\_\_.300 Auditee responsibilities.

The auditee shall:

(a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

(d) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with § \_\_\_\_\_.310.

(e) Ensure that the audits required by this part are properly performed and submitted when due. When extensions to the report submission due date required by § \_\_\_\_\_.320(a) are granted by the cognizant or oversight agency for audit, promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.

(f) Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § \_\_\_\_\_.315(b) and § \_\_\_\_\_.315(c), respectively.

#### § \_\_\_\_\_.305 Auditor selection.

(a) *Auditor procurement.* In arranging for audit services, auditees shall follow the procurement standards prescribed by the Grants Management Common Rule (GMCR) published March 11, 1988 and amended April 19, 1995 [Each agency should insert appropriate CFR citation.] Circular A-110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," or the FAR (48 CFR part 42), as applicable. (Circular available from Office of Administration, Publications Office, Room 2200, New Executive Office Building, Washington, DC 20503; telephone (202) 395-7332.) Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in GMCR, OMB Circular A-110, or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

(b) *Restriction on auditor preparing indirect cost proposals.* An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded \$1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. To minimize any disruption in existing contracts for audit services, this paragraph applies to audits of fiscal years beginning after June 30, 1998.

(c) *Use of Federal auditors.* Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.

#### § \_\_\_\_\_.310 Financial statements.

(a) *Financial statements.* The auditee shall prepare financial statements that reflect its financial position, results of operations, and, where appropriate, cash flows for the fiscal year audited. The financial statements shall be for the same organizational unit and fiscal year

that is chosen to meet the requirements of this part.

(b) *Schedule of expenditures of Federal awards.* The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements. While not required, it is appropriate for the auditee to provide information requested to make the schedule easier to use by Federal awarding agencies and pass-through entities. For example, when a Federal program has multiple award years, the auditee may list the amount of each award year separately. At a minimum, the schedule shall:

(1) List individual Federal programs by Federal agency and major subdivision within a Federal agency. For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

(2) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available.

(3) Identify major programs.

(4) Include notes that describe the significant accounting policies used in preparing the schedule and identify in the notes the dollar threshold used to distinguish between Type A and Type B programs, as described in § \_\_\_\_\_.520(b).

(5) To the extent practical, pass-through entities should identify in the schedule the total amount provided to subrecipients from each Type A program and from each Type B program which is audited as a major program.

(6) List individual Federal awards within a cluster of programs. However, when it is not practical to list each individual Federal award for R&D, total Federal awards expended shall be shown by Federal agency and major subdivision within the Federal agency. For example, the National Institutes of Health is a major subdivision in the Department of Health and Human Services.

(7) Include, in either the schedule or a note to the schedule, the value of the Federal awards expended in the form of non-cash assistance, insurance in effect during the year, and loans or loan guarantees outstanding at year end.

#### § \_\_\_\_\_.315 Audit findings follow-up.

(a) *General.* The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee shall prepare a summary schedule of prior audit findings. The auditee shall also prepare a corrective action plan for current year audit findings. The summary schedule

of prior audit findings and the corrective action plan shall include the reference numbers the auditor assigns to audit findings under § \_\_\_\_\_.510(c). Since the summary schedule may include audit findings from multiple years, it shall include the fiscal year in which the finding initially occurred.

(b) *Summary schedule of prior audit findings.* The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(4) of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.

(3) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule shall provide an explanation.

(4) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

(i) Two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse;

(ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

(iii) A management decision was not issued.

(c) *Corrective action plan.* At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit

findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.

#### § \_\_\_\_\_.320 Report submission.

(a) *General.* The audit shall be completed and the reporting package described in paragraph (c) of this section submitted within nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. (However, for fiscal years beginning on or before June 30, 1998, auditees shall have 13 months after the end of the audit period to complete the audit and submit the reporting package.) The reporting package shall be submitted within 30 days after issuance of the auditor's report(s) to the auditee. Unless restricted by law or regulation, the auditee shall make copies available for public inspection.

(b) *Data Collection.* The auditee shall complete a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The form shall be approved by OMB, available from the Federal clearinghouse designated by OMB, include data elements similar to those presented in this paragraph, and use a machine-readable format. The auditee's chief executive officer or chief financial officer shall sign a statement that the information on the form is accurate and complete as follows:

#### Certificate of Audit

This is to certify that, to the best of my knowledge and belief, the [specify name of the auditee] has: (1) Engaged an auditor to perform an audit in accordance with the provisions of OMB Circular A-133 for the [specify number] months ended [specify date]; (2) the auditor has completed such audit and presented a signed audit report which states that the audit was conducted in accordance with the provisions of the Circular; and, (3) the information on the attached form is accurate and complete and reflects the results of this audit, as presented in the auditor's report. I declare that the foregoing is true and correct.

#### Attachment to Certificate

#### Data Collection Form

1. The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

2. A yes or no statement as to whether the auditor's report on the financial statements indicated that the auditor has substantial doubt about the auditee's ability to continue as a going concern.

3. The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

4. A list of the Federal awarding agencies and pass-through entities which will receive a copy of the reporting package pursuant to § \_\_\_\_\_.320(d)(2) and § \_\_\_\_\_.320(e)(2), respectively, of OMB Circular A-133. An explanation should be provided if this list is different from the communication the auditor provides to the auditee under § \_\_\_\_\_.500(f) of OMB Circular A-133.

5. A yes or no statement as to whether the auditee qualified as a low-risk auditee under § \_\_\_\_\_.530 of OMB Circular A-133.

6. The dollar threshold used to distinguish between Type A and Type B programs as defined in § \_\_\_\_\_.520(b) of OMB Circular A-133.

7. The Catalog of Federal Domestic Assistance (CFDA) number for each Federal program, as applicable.

8. The name of each Federal program and identification of each major program. Individual awards within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.

9. The amount of expenditures in the schedule of expenditures of Federal awards associated with each Federal program.

10. A yes or no statement as to whether there are audit findings and the amount of any questioned costs related to the following for each Federal program:

a. Types of services allowed or unallowed b. Eligibility c. Matching, level of effort, or earmarking d. Federal financial reporting e. Program income f. Procurement g. Subrecipient monitoring h. Allowable costs/cost principles i. Other

11. Auditee Name: \_\_\_\_\_

Employer Identification Number: \_\_\_\_\_

Name and Title of Responsible Official: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

12. Auditor Name: \_\_\_\_\_

Name and Title of Contact Person: \_\_\_\_\_

Auditor Address: \_\_\_\_\_

Auditor Telephone Number: \_\_\_\_\_

13. Whether the auditee has a cognizant or oversight agency for audit.

14. The name of the cognizant or oversight agency for audit determined in accordance with § \_\_\_\_\_.400(a) and § \_\_\_\_\_.400(b), respectively.

(c) *Reporting Package.* The reporting package shall include the:

(1) Data collection form discussed in paragraph (b) of this section;

(2) Financial statements and schedule of expenditures of Federal awards discussed in § \_\_\_\_\_.310(a) and § \_\_\_\_\_.310(b), respectively;

(3) Summary schedule of prior audit findings discussed in § \_\_\_\_\_.315(b);

(4) Auditor's report(s) discussed in § \_\_\_\_\_.505; and

(5) Corrective action plan discussed in § \_\_\_\_\_.315(c).

(d) *Submission to clearinghouse.* All auditees shall submit to the Federal clearinghouse designated by OMB one copy of the reporting package described in paragraph (c) of this section for:

(1) The Federal clearinghouse to retain as an archival copy; and

(2) Each Federal awarding agency when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the Federal awarding agency provided directly or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the Federal awarding agency provided directly.

(e) *Additional submission by subrecipients.* In addition to the requirements discussed in paragraph (d) of this section, subrecipients shall submit to each pass-through entity one copy of the:

(1) Data collection form discussed in paragraph (b) of this section; and

(2) Reporting package described in paragraph (c) of this section for each pass-through entity when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the pass-through entity provided or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the pass-through entity provided.

(f) *Requests for report copies.* In response to requests by a Federal agency or pass-through entity, auditees shall submit the appropriate copies of the reporting package described in paragraph (c) of this section and, if requested, a copy of any management letters issued by the auditor.

(g) *Report retention requirements.* Auditees shall keep one copy of the reporting package described in

paragraph (c) of this section on file for three years from the date of submission to the Federal clearinghouse designated by OMB. Pass-through entities shall keep subrecipients' submissions on file for three years from date of receipt.

(h) *Clearinghouse responsibilities.* The Federal clearinghouse designated by OMB shall distribute the reporting packages received in accordance with paragraph (d)(2) of this section and § \_\_\_\_\_.235(c)(3) to applicable Federal awarding agencies, maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees which have not submitted the required data collection forms and reporting packages.

(i) *Clearinghouse address.* The address of the Federal clearinghouse currently designated by OMB is Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132.

(j) *Electronic filing.* Nothing in this part shall preclude electronic submissions to the Federal clearinghouse in such manner as may be approved by OMB. With OMB approval, the Federal clearinghouse may pilot test methods of electronic submissions.

#### **Subpart D—Federal Agencies and Pass-Through Entities**

##### **§ \_\_\_\_\_.400 Responsibilities.**

(a) *Cognizant agency for audit responsibilities.* Recipients expending more than \$25 million a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment and provides notice in the Federal Register. To provide for continuity of cognizance, the determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. For example, audit cognizance for periods ending in 1996 through 2000 will be determined based on Federal awards expended in 1995. A Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency which provides substantial direct funding and agrees to be the cognizant agency for audit. Within 30 days after any reassignment, both the old and the new cognizant agency for audit shall notify the auditee, and, if

known, the auditor of the reassignment. The cognizant agency for audit shall:

(1) Provide technical audit advice and liaison to auditees and auditors.

(2) Consider auditee requests for extensions to the report submission due date required by § \_\_\_\_\_.320(a). The cognizant agency for audit may grant extensions for good cause.

(3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor of irregularities or illegal acts, as required by GAGAS or laws and regulations.

(5) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee shall work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit shall notify the auditor, the auditee, and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.

(6) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this part, so that the additional audits or reviews build upon audits performed in accordance with this part.

(7) Coordinate a management decision for audit findings that affect the Federal programs of more than one agency.

(8) Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

(b) *Oversight agency for audit responsibilities.* An auditee which does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency determined in accordance with the definition of oversight agency for audit in § \_\_\_\_\_.105. The oversight agency for audit:

(1) Shall provide technical advice to auditees and auditors as requested.

(2) May assume all or some of the responsibilities normally performed by a cognizant agency for audit.

(c) *Federal awarding agency responsibilities.* The Federal awarding

agency shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each recipient of the CFDA title and number, award name and number, award year, and if the award is for R&D. When some of this information is not available, the Federal agency shall provide information necessary to clearly describe the Federal award.

(2) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of this part.

(3) Provide technical advice and counsel to auditees and auditors as requested.

(4) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.

(5) Assign a person responsible to inform OMB annually of any updates needed to the compliance supplements.

(d) *Pass-through entity responsibilities.* A pass-through entity shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending \$300,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.

(7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records

and financial statements as necessary for the pass-through entity to comply with this part.

#### § \_\_\_\_\_.405 Management decision.

(a) *General.* The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request that the documentation be audited, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.

(b) *Federal agency.* As provided in § \_\_\_\_\_.400(a)(7), the cognizant agency for audit shall be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency. As provided in § \_\_\_\_\_.400(c)(4), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients. Alternate arrangements may be made on a case-by-case basis by agreement among the Federal agencies concerned.

(c) *Pass-through entity.* As provided in § \_\_\_\_\_.400(d)(5), the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) *Time requirements.* The entity responsible for making the management decision shall do so within six months of receipt of the audit report. Corrective action should be initiated within six months and proceed as rapidly as possible.

(e) *Reference numbers.* Management decisions shall include the reference numbers the auditor assigned to each audit finding in accordance with § \_\_\_\_\_.510(c).

#### Subpart E—Auditors

#### § \_\_\_\_\_.500 Scope of audit.

(a) *General.* The audit shall be conducted in accordance with GAGAS. The audit shall cover the entire operations of the auditee; or, at the option of the auditee, such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards

during such fiscal year, provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards shall be for the same fiscal year.

(b) *Financial statements.* The auditor shall determine whether the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles. The auditor shall also determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole.

(c) *Internal control.* (1) In addition to the requirements of GAGAS, the auditor shall perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs and the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a State/local-wide central service cost allocation plan (as fully described in Appendix C of Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments," issued May 4, 1995, and hereinafter referred to as a "cost allocation plan"). (Circular available from Office of Administration, Publications Office, Room 2200, New Executive Office Building, Washington, DC 20503; telephone (202) 395-7332.)

(2) Except as provided in paragraph (c)(3) of this section, the auditor shall:

(i) Plan the testing of internal control over major programs and the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(2)(i) of this section.

(3) When internal control over some or all of the compliance requirements for a major program and the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(2) of this section are not required for those compliance requirements. However, the auditor

shall report a reportable condition or a material weakness in accordance with § \_\_\_\_\_.510, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(d) *Compliance.* (1) In addition to the requirements of GAGAS, the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs and the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan.

(2) The principal compliance requirements common to most Federal programs and the programmatic compliance requirements of the largest Federal programs are included in the compliance supplements.

(3) For the compliance requirements (common and programmatic) related to Federal programs contained in the compliance supplements, an audit of these compliance requirements will meet the requirements of this part. Where there have been changes to the compliance requirements and the changes are not reflected in the compliance supplements, the auditor shall determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplements, the auditor should use the types of compliance requirements (e.g., cash management, Federal financial reporting, allowable costs/cost principles, types of services allowed or unallowed, eligibility, and matching) contained in the compliance supplements as guidance for identifying the types of compliance requirements to test, and determine the requirements governing the Federal program by reviewing the provisions of contracts and grant agreements and the laws and regulations referred to in such contracts and grant agreements. The auditor should consult with the applicable Federal agency to determine the availability of agency-prepared supplements or audit guides.

(4) The compliance testing shall include tests of transactions, including costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan, and such other auditing procedures necessary to provide the auditor sufficient evidence to support an opinion on compliance.

(e) *Audit follow-up.* The auditor shall follow up on prior audit findings, perform procedures to assess the reasonableness of the summary

schedule of prior audit findings prepared by the auditee in accordance with § \_\_\_\_\_.315(b), and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor shall perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program or the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan in the current year.

(f) *Communication.* The auditor shall communicate, preferably in writing, to the auditee which Federal awarding agencies and pass-through entities are required to receive a copy of the reporting package pursuant to § \_\_\_\_\_.320(d)(2) and § \_\_\_\_\_.320(e)(2), respectively. The auditor shall retain a record of this communication in the auditor's working papers.

#### § \_\_\_\_\_.505 Audit reporting.

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) A report on internal control related to the financial statements, major programs, and the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(c) A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant

agreements which could have a direct and material effect on each major program and on the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(d) A schedule of findings and questioned costs which shall include the following three components:

(1) A summary of the auditor's results which shall include:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses;

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee;

(iv) Where applicable, a statement that reportable conditions in internal control over major programs and the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan were disclosed by the audit and whether any such conditions were material weaknesses;

(v) The type of report the auditor issued on compliance for major programs and with the provisions of applicable OMB cost principles circulars, the FAR (48 CFR parts 30 and 31), or other applicable cost principles or regulations pertaining to the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion); and

(vi) A statement as to whether the audit disclosed any audit findings which the auditor is required to report under § \_\_\_\_\_.510(a).

(2) Findings and questioned costs for the financial statements which are required to be reported in accordance with GAGAS.

(3) Findings and questioned costs for Federal awards which shall include audit findings as defined in § \_\_\_\_\_.510(a).

(i) Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) which relate to the same issue should be presented as a single audit finding. Where

practical, audit findings should be organized by Federal agency or pass-through entity.

(ii) Audit findings which relate to both the financial statements and Federal awards, as reported under paragraphs (d)(2) and (d)(3) of this section, respectively, should be reported in both schedules. However, the reporting in one schedule may be in summary form with a reference to a detailed reporting in the other schedule.

#### § \_\_\_\_\_.510 Audit findings.

(a) *Audit findings reported.* The auditor shall report the following as audit findings in a schedule of findings and questioned costs:

(1) Reportable conditions in internal control over major programs and over the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan. The auditor's determination of whether a deficiency in internal control is a reportable condition for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program, total costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan, or an audit objective identified in the compliance supplements. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.

(2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program and the provisions of applicable OMB cost principles circulars, the FAR, or other applicable cost principles or regulations pertaining to the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan. The auditor's determination of whether a noncompliance with the provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program, total costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan, or an audit objective identified in the compliance supplements.

(3) Known questioned costs which are greater than \$10,000 for a type of compliance requirement for a major program and costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan. Known questioned costs are those specifically identified by the auditor. In

evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than \$10,000 for a type of compliance requirement for a major program and costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs which are greater than \$10,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program which is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program which is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than \$10,000, then the auditor shall report this as an audit finding.

(5) The circumstances concerning why the auditor's report on compliance for major programs and the allowability of costs charged to cost pools used to support an indirect cost rate or allocated through a cost allocation plan is other than an unqualified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with § \_\_\_\_\_.315(b) materially misrepresents the status of any prior audit finding.

(b) *Audit finding detail.* Audit findings shall be presented in sufficient detail for the auditee to prepare a

corrective action plan and take corrective action and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information shall be included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award number, is not available, the auditor shall provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) Identification of questioned costs and how they were computed.

(5) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

(6) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.

(7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(8) Views of responsible officials of the auditee when there is disagreement with the audit findings, to the extent practical.

(c) *Reference numbers.* Each audit finding in the schedule of findings and questioned costs shall include a reference number to allow for easy referencing of the audit findings during follow-up.

#### § \_\_\_\_\_.515 Audit working papers.

(a) *Retention of working papers.* The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When

the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.

(b) *Access to working papers.* Audit working papers shall be made available upon request to the cognizant or oversight agency for audit or its designee, a Federal agency providing direct or indirect funding, or GAO at the completion of the audit. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

**§ \_\_\_\_\_.520 Major program determination.**

(a) *General.* The auditor shall use a risk-based approach to determine which Federal programs are major programs. This risk-based approach shall include consideration of: Current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (i) of this section shall be followed.

(b) *Step 1.* The auditor shall identify the larger Federal programs, which shall be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the larger of:

(i) \$300,000 or three percent (.03) of total Federal awards expended in the case of an auditee for which total Federal awards expended equal or exceed \$300,000 but are less than or equal to \$100 million.

(ii) \$3 million or three-tenths of one percent (.003) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed \$100 million but are less than or equal to \$10 billion.

(iii) \$30 million or 15 hundredths of one percent (.0015) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed \$10 billion.

(2) Federal programs not labeled Type A under paragraph (b)(1) of this section shall be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans significantly affects the number or size of Type A programs, the auditor shall consider this Federal program as a Type A program and exclude its values in determining other Type A programs.

(4) For biennial audits permitted under § \_\_\_\_\_.220, the determination of

Type A and Type B programs shall be based upon the Federal awards expended during the two-year period.

(c) *Step 2.* The auditor shall identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it shall have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, it shall have had no audit findings under § \_\_\_\_\_.510(a). However, the auditor may use judgment and consider that audit findings from questioned costs under § \_\_\_\_\_.510(a)(3) and § \_\_\_\_\_.510(a)(4), fraud under § \_\_\_\_\_.510(a)(6), and audit follow-up for the summary schedule of prior audit findings under § \_\_\_\_\_.510(a)(7) do not preclude the Type A program from being low-risk. The auditor shall consider: the criteria in § \_\_\_\_\_.525(c), § \_\_\_\_\_.525(d)(1), § \_\_\_\_\_.525(d)(2), and § \_\_\_\_\_.525(d)(3); the results of audit follow-up; whether any changes in personnel or systems affecting a Type A program have significantly increased risk; and apply professional judgment in determining whether a Type A program is low-risk.

(2) Notwithstanding paragraph (c)(1) of this section, OMB may approve a Federal awarding agency's request that a Type A program at certain recipients may not be considered low-risk. For example, it may be necessary for a large Type A program to be audited as major each year at particular recipients to allow the Federal agency to comply with the Government Management Reform Act of 1994 (31 U.S.C. 3515). The Federal agency shall notify the recipient and, if known, the auditor at least 120 days prior to the end of the fiscal year to be audited of OMB's approval.

(d) *Step 3.* The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in § \_\_\_\_\_.525. However, should the auditor select Option 2 under Step 4 (paragraph (e)(2)(i)(B) of this section), the auditor is not required to identify more high-risk Type B programs than the number of low-risk Type A programs. Except for known reportable conditions in internal control or compliance problems as discussed in § \_\_\_\_\_.525(b)(1), § \_\_\_\_\_.525(b)(2), and § \_\_\_\_\_.525(c)(1), a single criteria in § \_\_\_\_\_.525 would seldom cause a Type B program to be considered high-risk.

(2) An audit under this part is not expected to test relatively small Federal programs. Therefore, except to meet the percentage of coverage rule discussed in

paragraph (f) of this section, the auditor is only required to perform risk assessments on Type B programs that exceed the larger of:

(i) \$100,000 or three-tenths of one percent (.003) of total Federal awards expended when the auditee has less than or equal to \$100 million in total Federal awards expended.

(ii) \$300,000 or three-hundredths of one percent (.0003) of total Federal awards expended when the auditee has more than \$100 million in total Federal awards expended.

(e) *Step 4.* At a minimum, the auditor shall audit all of the following as major programs:

(1) All Type A programs, except the auditor may exclude any Type A programs identified as low-risk under Step 2 (paragraph (c)(1) of this section).

(2) (i) High-risk Type B programs as identified under either of the following two options:

(A) *Option 1.* At least one half of the Type B programs identified as high-risk under Step 3 (paragraph (d) of this section), except this paragraph (e)(2)(i)(A) does not require the auditor to audit more high-risk Type B programs than the number of low-risk Type A programs identified as low-risk under Step 2.

(B) *Option 2.* One high-risk Type B program for each Type A program identified as low-risk under Step 2.

(ii) When identifying which high-risk Type B programs to audit as major under either Option 1 or 2 in paragraph (a)(2)(i)(A) or (B) of this section, the auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

(3) Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in paragraph (f) of this section. This paragraph (e)(3) may require the auditor to audit more programs as major than the number of Type A programs.

(f) *Percentage of coverage rule.* The auditor shall audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 50 percent of total Federal awards expended. If the auditee meets the criteria in § \_\_\_\_\_.530 for a low-risk auditee, the auditor need only audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 25 percent of total Federal awards expended.

(g) *Documentation of risk.* The auditor shall document in the working papers the risk analysis process used in determining major programs.

(h) *Auditor's judgment.* When the major program determination was performed and documented in accordance with this part, the auditor's judgment in applying the risk-based approach to determine major programs shall be presumed correct. Challenges by Federal agencies and pass-through entities shall only be for clearly improper use of the guidance in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor shall consider this guidance in determining major programs in audits not yet completed.

(i) *Deviation from use of risk criteria.* For first-year audits, the auditor may elect to determine major programs as all Type A programs plus any Type B programs as necessary to meet the percentage of coverage rule discussed in paragraph (f) of this section. Under this option, the auditor would not be required to perform the procedures discussed in paragraphs (c), (d), and (e) of this section.

(1) A first-year audit is the first year the entity is audited under this part or the first year of a change of auditors.

(2) To ensure that a frequent change of auditors would not preclude audit of high-risk Type B programs, this election for first-year audits may not be used by an auditee more than once in every three years.

**§ \_\_\_\_\_.525 Criteria for Federal program risk.**

(a) *General.* The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring which could be material to the Federal program. The auditor shall use auditor judgment and consider criteria, such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with auditee management and the Federal agency or pass-through entity.

(b) *Current and prior audit experience.* (1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to applicable laws and regulations and the provisions of contracts and grant agreements and the competence and experience of personnel who administer the Federal programs.

(i) A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor shall consider whether weaknesses are isolated in a single operating unit (e.g., one college campus) or pervasive throughout the entity.

(ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

(iii) The extent to which computer processing is used to administer Federal programs, as well as the complexity of that processing, should be considered by the auditor in assessing risk. New and recently modified computer systems may also indicate risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

(3) Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) *Oversight exercised by Federal agencies and pass-through entities.* (1) Oversight exercised by Federal agencies or pass-through entities could indicate risk. For example, recent monitoring or other reviews performed by an oversight entity which disclosed no significant problems would indicate lower risk. However, monitoring which disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrence of OMB, may identify Federal programs which are higher risk. OMB plans to provide this identification in the compliance supplements.

(d) *Inherent risk of the Federal program.* (1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have a high-risk for time and effort reporting, but otherwise be at low-risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than

an established program with time-tested regulations. Also, significant changes in Federal programs, laws, regulations, or the provisions of contracts or grant agreements may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

**§ \_\_\_\_\_.530 Criteria for a low-risk auditee.**

An auditee which meets all of the following conditions for each of the preceding two years shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with § \_\_\_\_\_.520(f):

(a) Single audits were performed on an annual basis in accordance with the provisions of this part. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee.

(b) The auditor's opinions on the financial statements and the schedule of expenditures of Federal awards were unqualified. However, the cognizant or oversight agency for audit may judge that an opinion qualification does not affect the management of Federal awards and provide a waiver.

(c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. However, the cognizant or oversight agency for audit may judge that any identified material weaknesses do not affect the management of Federal awards and provide a waiver.

(d) None of the Federal programs had audit findings from any of the following in either of the preceding two years in which they were classified as Type A programs:

(1) Internal control deficiencies which were identified as material weaknesses;

(2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or

(3) Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.

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**Part VI**

**Department of  
Transportation**

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**Federal Highway Administration**

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**49 CFR Part 395**

**Motor Vehicle Safety Standards: Hours of  
Service of Drivers; Proposed Rule**

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****49 CFR Part 395****FHWA Docket No. MC-96-28****RIN 2125-AD93****Hours of Service of Drivers****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Advance notice of proposed rulemaking (ANPRM); request for comments.

**SUMMARY:** The FHWA is initiating this rulemaking to revise the FHWA's hours-of-service (HOS) regulations. The FHWA is nearing completion of several research projects and seeks the results of other relevant research to consider in this effort. To assist the FHWA in gathering all pertinent data to make informed decisions based upon scientific evidence, the FHWA requests assistance in locating any other relevant information, including research, operational tests, or pilot regulatory programs conducted anywhere in the world, that may be used by the agency in developing a revised program for the HOS of commercial motor vehicle (CMV) drivers. This action is mandated by the ICC Termination Act of 1995.

**DATES:** Comments to the general ANPRM should be received no later than March 31, 1997. Late comments will be considered to the extent practicable.

**ADDRESSES:** Comments should be sent to: Docket Clerk, Attn: FHWA Docket No. MC-96-28, Federal Highway Administration, Department of Transportation, Room 4232, 400 Seventh Street, SW., Washington, D.C. 20590. Persons who require acknowledgment of the receipt of their comments must enclose a stamped, self-addressed postcard. Comments may be reviewed at the above address from 8:30 a.m. through 3:30 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** *For information regarding rulemaking and operational issues:* Mr. David Miller, Office of Motor Carrier Research and Standards, (202) 366-1790; *for information regarding human factors and fatigue research programs:* Ms. Deborah Freund, Office of Motor Carrier Research and Standards, (202) 366-1790; *and for information regarding legal issues:* Mr. Charles Medalen, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400

Seventh Street, SW., Washington, D.C. 20590.

**SUPPLEMENTARY INFORMATION:** An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register electronic bulletin board service (telephone: 202-512-1661). Internet users may reach the Federal Register's web page at: [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs)

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**I. Purpose of This Rulemaking**

On December 29, 1995, the ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803, 958) was signed into law. Among other things, section 408 of this Act requires the FHWA to issue an ANPRM addressing the FHWA's current HOS regulations. This requirement is presented in the context of legislation which also requires the FHWA to ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States. Section 13101 of title 49, U.S.C., (109 Stat. 852), in section 103 of the ICC Termination Act, establishes the Transportation Policy for motor carriers, which includes among others:

- (1) Promote safe, adequate, economical, and efficient transportation;
- (2) Encourage sound economic conditions in transportation, including sound economic conditions among carriers;
- (3) Encourage fair wages and working conditions in the transportation industry;
- (4) Oversee transportation by motor carrier, to promote competitive and efficient transportation services in order to—
  - (a) Encourage fair competition, and reasonable rates for transportation by motor carriers of property;
  - (b) Promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

- (c) Meet the needs of shippers, receivers, passengers, and consumers;
- (d) Allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

- (e) Allow the most productive use of equipment and energy resources;

- (f) Enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

- (g) Provide and maintain service to small communities and small shippers and intrastate bus services;

- (h) Improve and maintain a sound, safe, and competitive privately owned motor carrier system;

- (i) Promote greater participation by minorities in the motor carrier system; and

- (j) Promote intermodal transportation.

The FHWA has much broader responsibilities under the Act than it had in the past. The FHWA's major focus has been, and will continue to be on, motor carrier safety, but now the FHWA must consider the economic vitality and productivity of the motor carrier industry in its economic regulation of motor carriers, drivers, and CMVs.

The FHWA has been considering modifications to its HOS regulations to be more responsive to its goal of reducing highway crashes involving CMVs. Its overall objective has not changed. The provision of the Act concerning an HOS ANPRM is a catalyst to enhance safety while maintaining, or increasing productivity. This process will review the conventional HOS regulations, and variations or exemptions that may be possible based upon scientific data. This process will also initiate an exploration of alternative regulatory approaches and non-regulatory approaches to promote an increased level of highway safety, coupled with improved productivity.

The FHWA believes that there have been changes to many elements of the motor carrier industry that suggest a change in the HOS regulations is necessary. The CMVs of today offer improved ride characteristics and better climate control to enhance driver alertness and comfort. Roads and highways are now built and maintained better than in the 1930's when the HOS regulations were first developed. Shipper/consignee demands and driver pay issues also affect the HOS issue. Improvements in technologies and logistics, including global positioning systems (GPS), satellite communications, in-vehicle cellular communications, and emerging intelligent transportation system (ITS)

and ITS-influenced technologies allow for greater operational flexibility. On the other hand, congestion, truck size, and other factors which increase the burden on drivers have changed substantially, as well. All of these factors, taken together, suggest that a comprehensive review of the HOS rules is appropriate.

In 1992, as a part of the FHWA's Zero-base regulatory review of the motor carrier safety regulations, the FHWA began to re-evaluate the current HOS regulations to respond to changes in the highway environment and the motor carrier industry that operates in it. The FHWA has proposed, in numerous meetings and correspondence, to build a performance-based system of regulations to replace or augment, as appropriate, the current prescriptive-based system. The FHWA's research into driver fatigue and loss of alertness began in the 1970's, was dormant during most of the 1980's, and was renewed and expanded over the last six years.

The FHWA believes this rulemaking will produce two results. In the short term, it will generate proposals for changes to the conventional HOS regulations to make them more responsive to safety, while maintaining or enhancing productivity. In the long term, it should begin a transformation of the HOS regulations into a combination of a new performance-based regulatory scheme which would address driver alertness and fitness for duty. Use of such a performance-based system could be voluntary. Motor carriers not wishing to use such a system would continue to be subject to a modified version of the current, prescriptive system. The short-term changes would reflect the findings of recently completed research that should increase productivity while enhancing operational safety.

A performance-based system of HOS regulations would recognize the use of technology to record and track a driver's level of alertness at intervals each day. The driver's HOS, hours of rest, fatigue-producing extra-curricular activities, and other activities would be recorded by a device. The device would report the level of fatigue at a given time and the amount of additional time that might be worked before rest would be necessary for a particular driver. If adopted by a motor carrier, the FHWA believes this type of system would replace any manual or electronic recordation system that is currently being used to meet the HOS requirements of Part 395. The FHWA is studying four new and different technologies that might be used in a performance-based regulatory scheme. A further discussion of this research study is provided in the research

appendix to this document under the subheading *Driver Work and Rest Needs Study*.

This ANPRM seeks substantive information on research and operational studies in addition to those discussed later in this document or already contained in the public docket. Comments are sought from all interested parties, around the world, that may help the FHWA to formulate both new conventional regulations and a performance-based system that would assist motor carriers in the safe use of their drivers. The FHWA would like to gather research and data to assist the agency in developing a system that ensures that drivers are alert while driving CMVs on public roads.

The FHWA is not proposing specific rules or requirements at this time. This document merely seeks additional information that the FHWA may use to formulate proposals that (1) would minimize crashes and regulatory burdens, (2) are supportable either by data or by the best available professional judgment, (3) are cost-effective, simple to understand, comply with, and (4) are enforceable. The FHWA has an enormous amount of data on this subject already. The research known to exist, presented later in this document, is voluminous. The purpose of this ANPRM is to conduct one last comprehensive worldwide search for any relevant research and information before making specific proposals.

## II. Rulemaking Process

This document is the first in a series of actions to attain the FHWA's HOS goals. As stated previously, it does not propose regulatory changes. It seeks answers to many questions. The FHWA needs specific answers to these questions, and the presentation of supporting information, to ensure that future proposed rulemakings are based upon sound scientific research and factual data. The FHWA does not want to base changes to the rules upon anecdotal information or intuitive opinions.

Based upon public comments to this ANPRM, additional completed research, and research data submitted, the FHWA will formulate specific proposals and publish a notice of proposed rulemaking (NPRM). The NPRM will also provide a comment period for additional public response to specific proposals. Unless modified due to comments on this ANPRM or new information, the FHWA now anticipates that a final rule may be developed and published as early as 1999 for a new prescriptive set of HOS regulations (similar to the 10-hour, 15-hour, etc. rules) and as early as the year

2000 for a performance-based set of regulations.

## III. The History of The FHWA Hours-of-Service Problem

Copies of all historical regulatory documents mentioned below are included in the public docket, number MC-96-28 and will be available for examination at the above given address.

### A. Early Hours-of-Service Problems Identified

The development of the motor carrier industry began shortly after World War I. It had become a serious competitor to the railroads and water carriers prior to the Great Depression of 1929. The motor carrier industry was initially regulated by many of the States, but these regulations were not uniform and universal in their application. The Congress had discussed the issues related to the infant motor carrier industry from 1909 through 1932. See Regulation of Transportation Agencies, S. Doc. No. 152, 73d Cong. 2d Sess. (February 28, 1934).

The Interstate Commerce Commission (ICC), which had been in existence since 1888, recommended Federal regulation of motor carriers as early as 1928. The lack of uniform regulations, or none at all in some States, generated allegations of disturbing abuses and concerns in both the economic and safety arenas. The Federal Coordinator of Transportation, a post created in 1933 by the Emergency Railroad Transportation Act of 1933 (June 16, 1933, Pub. L. 73-68, 48 Stat. 211) to promote transportation development for the Nation, studied the highway transportation situation. In 1934, the Federal Coordinator recommended regulation of motor carrier activities by the Federal Government. The report concluded that motor carriers should be regulated in a way similar to the railroad industry, which had been regulated by the ICC for the previous 50 years. The report recommended regulating the economic, as well as the safety, aspects of the motor carrier industry.

Following this report, the Congress again discussed the regulation of motor carriers and passed the Motor Carrier Act of 1935 (August 9, 1935, Pub. L. 74-255, 49 Stat. 543)(MCA). The MCA was enacted as Part II of the Interstate Commerce Act (49 USC 13101 *et seq.*, Chap. 104, 24 Stat. 379, February 4, 1887, as amended) and placed responsibilities on the ICC to regulate motor carriers in the areas of economic health and safety of operations.

### B. ICC Regulates Hours-of-Service of Drivers

The ICC issued a general set of motor carrier safety regulations in 1937. These first regulations did not include HOS rules. Later, HOS regulations were issued, only to be delayed while additional hearings were held on the issue, which had become controversial within the industry.

In August 1937, the Federal Coordinator of Transportation reported that the Bureau of Public Roads (BPR), the predecessor of the Federal and Federally-assisted construction programs of the FHWA, had collected data on the HOS of about 7,000 drivers of for-hire vehicles in 1936. In a hearing before the ICC, the BPR presented a report that noted that, of vehicles using only one driver per vehicle after a period of rest, 23.0 percent of the drivers had worked more than 12 hours, 10.4 percent had worked more than 15 hours, 3.7 percent had worked more than 20 hours, and 1.3 percent had worked in excess of 27 hours. The Federal Coordinator also reported that the States had widely varying HOS rules. The CMV drivers in 34 States were allowed to operate motor vehicles between 7 and 14 continuous hours after a period of rest of between 6 to 12 hours. Additionally, 41 States had allowed between 8 and 16 hours of driving within a 24 hour period of time.

In view of these findings and other evidence submitted at the hearings, the ICC issued regulations on January 4, 1938 (3 FR 7), to limit the HOS of interstate truck drivers engaged in for-hire service. The order of the ICC prescribed, in part, that no driver of a for-hire interstate motor vehicle should be *on duty* longer than 60 hours in any one week or 15 hours in any one day, with a further limitation of 12 hours, *actually at work*, in any one day. These regulations were stayed by the ICC before the July 1, 1938, effective date, and a new set of regulations was

promulgated to become effective three months later. In subsequent proceedings, the ICC considered the advisability of further altering the regulations. Responding to the Federal Coordinator's report, congressional hearings, and public hearings, the ICC adopted regulations establishing maximum hours of driving and on-duty time. The new HOS regulations became effective on March 1, 1939.

These rules required motor carriers, for-hire common and contract, to limit drivers to a total of 10 hours of driving in any period of 24 consecutive hours unless the driver was off duty for 8 consecutive hours immediately following the 10 hours of driving. In addition, drivers were limited to 60 hours on-duty time in any week (168 consecutive hours). For motor carriers that operated vehicles every day of the week, the limit was set at 70 hours in any period of 192 consecutive hours. These rules were extended to private motor carriers of property in October, 1940 and provided exceptions for driver-salesmen who were employed by private motor carriers of property, for farmers of certain agricultural commodities, and for drivers making local deliveries for retail stores or retail catalog goods between December 10 and 25 of each year.

The regulations issued in 1938 and 1939 reflected testimony provided at the ICC hearings, and were not based upon scientific inquiry even though a scientific study was considered at the time. That study is discussed later in this document under the heading "Research into the HOS of Drivers."

On March 29, 1962, in Ex-Parte No. MC-40, Sub No. 1, the ICC issued the "15 hour rule" requiring that no driver be required or permitted to drive more than 2 hours after having been on duty 13 hours following 8 consecutive hours off duty. Also, in this rulemaking, the ICC removed the prohibition that a driver may only drive 10 hours in any 24 hour period and added an exception

to the 60/70 hour rule for oil field related transportation. On February 21, 1963, the ICC amended the 15-hour rule, to state that no driver shall be on duty more than 15 hours following 8 consecutive hours off duty. The ICC, on this date, also amended the 60 hour and 70 hour rules by defining the 7 and 8 day time periods for the calculation of the time period of one week. By these actions, the ICC established the current HOS regulations applicable to most of the motor carrier industry (the 10-hour driving time limit, 15-hour on-duty time limit, and the 60/70 hour on-duty time limit in a 7/8 day period).

### C. Transfer of Hours of Service Regulations to DOT

Serious debate began in the mid-1960's about the establishment of a cabinet level department to administer the transportation safety responsibilities of the Federal Government in all modes. In 1966, the Congress passed the Department of Transportation Act (49 USC 101 *et seq.*) which created the DOT. The DOT Act was effective April 1, 1967. The Congress transferred the ICC's motor carrier safety responsibilities to the DOT, where they were then delegated to the Federal Highway Administrator.

The FHWA published an ANPRM on February 12, 1976 (41 FR 6275). The comments to this ANPRM did not provide sufficient data to determine whether the HOS should be amended. A second ANPRM was issued on May 22, 1978 (43 FR 21905). This second advance notice invited comments on three different plans for limiting driver's HOS. The three proposed plans were identified as plans I, II, and III. Plans I and II were alternative proposals covering single driver operations. Plan III was a proposal that would have been applicable only to sleeper berth operations using two drivers. Some of the major differences between each of the three plans may be seen in Table 1.

TABLE 1.—MAY 22, 1978 ANPRM PROPOSED HOS REVISIONS

Requirement	Plan I—single driver operation	Plan II—single driver operation	Plan III—sleeper berth operation using two drivers
1. Cumulative Limits (Maximum Weekly Hours).	60 hours in 7 consecutive days with 36 hour extended rest period.	60 hours in 7 consecutive days with 36 hour extended rest period.	Not Specified.
2. Duty Tour Limits (Maximum On-Duty Time).	12 hours .....	15 consecutive hours .....	80 consecutive hours.
3. Minimum Off—Duty Time .....	0≤4 hours on duty=8 hours off duty. 4–12 hours on duty=12 hours off duty.	0≤4 hours on duty=8 hours off duty. 4–12 hours on duty=12 hours off duty. 12≤13 hours on duty=14 hours off duty.	0≤2 hours on duty=12 hours off duty. 20≤40 hours on duty=24 hours off duty. 40≤60 hours on duty=36 hours off duty.

TABLE 1.—MAY 22, 1978 ANPRM PROPOSED HOS REVISIONS—Continued

Requirement	Plan I—single driver operation	Plan II—single driver operation	Plan III—sleeper berth operation using two drivers
4. Driving Limitation .....	10 hours or 450 miles .....	13≤14 hours on duty=16 hours off duty. 14≤15 hours on duty=18 hours off duty..	60≤80 hours on duty=48 hours off duty.
5. Driving Relief Periods .....	30 minutes every 2½ hours .....	11 hours or 500 miles .....	Dictated by time spent.
6. Intermittent Duty Status Allowed?.	Yes—But only for meal periods ....	30 minutes every 3 hours .....	30 minutes for each change of duty status.
7. Mandatory Meal Periods? .....	No .....	No .....	No.
8. Special Provisions for Night Driving Assignments?.	Yes—1 hour as off duty .....	Yes—1 hour as on duty time .....	Not Specified.
	No .....	Yes .....	No.

Over 1200 docket comments were submitted in response to the May 22, 1978 ANPRM, and the FHWA held seven public hearings throughout the Nation. The hearings generated 9,000 pages of testimony and submissions. On September 3, 1981 (46 FR 44198), the FHWA terminated the rulemaking based upon the economic impact that the proposed options would have had on motor carrier operations and the Nation's distribution system. The projected costs of each of the FHWA's three major options for revising the HOS regulations were considered to be significantly greater than the proposed benefits. See Booz, Allen, and Hamilton, Inc. *Assessments of the Impacts of Proposed HOS Revisions*, prepared for the Bureau of Motor Carrier Safety (Washington, DC: June 24, 1981). A copy is available in the FHWA docket.

The FHWA published a notice for public comment on January 24, 1980 (45 FR 5781), which, among other things, requested comments on a petition submitted by participants in the White House-established Ad Hoc Working Group on Truck Owner-Operator Problems. The FHWA requested comments on potential safety impacts of expanding the driving time limit to 12 hours in a 24-hour period and the on-duty limit to 96 hours in an 8-day period.

Over 700 docket comments were received. Ninety-four percent of the comments opposed the expanded HOS regulations. On December 15, 1980 (45 FR 82284), the FHWA denied the petition and closed the docket. In this December 15 document, the FHWA published a summary of the findings of three DOT research studies on fatigue, mentioned later in this document, and analyses of 12 other research papers on fatigue. (Copies of the three research reports have been placed in this FHWA docket.)

On October 30, 1987 (52 FR 41718), the FHWA made additional changes to

the HOS regulations. The FHWA amended the 60/70 hour rule to allow a driver to be on-duty, but not driving, after the 60th or 70th hour. In addition, the definition of on-duty time was amended. A final rule addressing declared emergency responses was published on July 30, 1992 (57 FR 33638). This rule allows a total exemption from the Federal Motor Carrier Safety Regulations (FMCSRs). Before a driver returns to normal regulated interstate operations, the FHWA allows a 24-hour restart of the clock similar to the March 29, 1962, oilfield transportation exception. Drivers who provide direct assistance to a declared emergency relief effort and have been on duty for more than 60/70 hours in 7/8 days were allowed to return to driving, in interstate commerce, after a minimum of 24 consecutive hours off duty.

On August 19, 1992 (57 FR 37504), the FHWA proposed changes similar in scope to the 1962 oilfield transportation exception, but that would have been applicable to all motor carriers and drivers subject to the FMCSRs. The FHWA requested comments on eleven issues relating to the proposal. Nearly 68,000 comments were received. Virtually no substantive information was presented in these comments to support a change in the regulations. Except in very general terms, the FHWA received little discussion of potential impacts upon highway safety that could result from increasing the available on-duty hours. The FHWA, therefore, declined to make the proposed changes to the rule, and on February 3, 1993 (58 FR 6937), the FHWA withdrew the proposal and closed the docket.

As mentioned above, the FHWA began a "Zero-base" review of the safety regulations, including the HOS requirements in 1992. This program will reconsider all of the FMCSRs in an effort to determine whether they could be more performance-oriented and less

prescriptive (57 FR 37392; August 18, 1992). The FHWA realizes that such an effort is a multi-stage, multi-year task. The "Zero-base" review is continuing and is projected to be completed in late 1998.

On December 8, 1994 (59 FR 63322), the FHWA invited and received comments on the issue of a waiver of the HOS regulations for those transporting crops and farm supplies. Docket comments were received from over 175 respondents, almost all of which were in support of the waiver concept.

The 1996 Department of Transportation and Related Agencies Appropriations Act (Pub. L. 104–50, 109 Stat. 436) and the National Highway System Designation Act of 1995 (Pub. L. 104–59, 109 Stat. 568)(NHS Act) congressionally mandated a waiver of the HOS regulations for those individuals transporting crops and farm supplies. Section 345 of the NHS Act created four specific exemptions from HOS provisions of the FMCSRs. On April 3, 1996, the FHWA published a final rule exempting specific types of operators and operations from the requirements of 49 CFR Part 395 (61 FR 14677).

The first exemption applies to drivers transporting agricultural commodities or farm supplies during planting and harvesting seasons, if the transportation is limited to the area within a 100 air-mile radius of the source of the commodities or the distribution point for the farm supplies. The FHWA was directed to exempt these drivers from the maximum driving and on-duty time regulations of the FMCSRs.

The second exemption relates to drivers who are primarily involved in the transportation of ground water drilling rigs. These rigs include any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to

transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water. The water drilling rig exception in the NHS Act permits these drivers to "restart the clock," which means that at any point at which the driver is off-duty for 24 or more consecutive hours, the period of 7 or 8 days ends as of the beginning of that off-duty period, and the clock restarts for purposes of computing the 7 or 8 day period when the driver goes on duty again. Thus, this exemption enables the motor carrier to designate the time of day at which the period of 7 or 8 days begins. The definition of "24-hour period" in the NHS Act authorizes the carrier to designate the time of day at which the 24-hour period begins, which may vary between the various terminals from which drivers are dispatched.

The third exemption applies to drivers used primarily in the transportation of construction materials and equipment, which is defined as the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles. The driver must be en route to or from an "active construction site," which must be at a stage between initial mobilization of equipment and materials to the site, and final completion of the construction project. The construction site must also be within a 50 air-mile radius of the driver's normal work reporting location, and this exemption does not apply to the transportation of hazardous materials in a quantity requiring placarding. This exemption allows these construction drivers to restart the calculation of a 7 or 8 day period under the hours of service regulations in the same fashion as provided in the second exemption.

The fourth and final exemption applies these same provisions to drivers of utility service vehicles. In order to qualify as a utility service vehicle, the vehicle must be operated primarily within the service area of the utility's subscribers. In addition, it must be used in furtherance of the repair, maintenance, or operation of any physical facilities necessary for the delivery of public utility service and must be engaged in any activity necessarily related to the ultimate delivery of public utility services to the consumer, including travel to, from, upon, or between activity sites. The public utility, which includes those delivering electric, gas, water, sanitary sewer, telephone, and television service, need not be the actual owner of the vehicle in question. This exemption

likewise enables utility drivers to restart the calculation of a 7 or 8 day period after the driver has been off duty for at least 24 hours consecutively.

For each of the four exemptions described above, other than the water well drilling exemption, the NHS Act provided the Secretary with the authority to negate or modify the exemption upon a determination, after a rulemaking proceeding, that the exemption is not in the public interest and would have a significant adverse impact on the safety of CMVs. This ANPRM does not serve as the rulemaking to make such a determination to negate or modify the congressionally mandated exemptions. The FHWA is considering such issues in a different rulemaking action to be published in the future.

This ANPRM primarily serves as the first rulemaking document in the "Zero-base" process to ultimately amend or revise the HOS rules. The FHWA envisions the possibility of eventually replacing, in whole or in part, the current set of prescriptive requirements (10-hours driving, 15-hours on-duty, 60/70 hours on duty in 7/8 days) with a set of performance-based requirements. The FHWA has initiated extensive research, some of which is completed, addressing the HOS issue (discussed later in this document) and will compile a record of information that could be applied to the FHWA's future proposal to amend the regulations.

In 1990 and 1995, the National Transportation Safety Board (NTSB) produced reports which sought to address the problem of CMV driver fatigue. The NTSB concluded in its more recent effort that the critical factors in predicting fatigue-related accidents were: (1) Duration of the most recent sleep period; (2) the amount of sleep in the previous 24 hours; and (3) fragmented sleep patterns. Its recommendations to the FHWA included calls for:

(1) Rulemaking to address the regulatory issues identified—

(a) Require sufficient rest provisions to enable drivers to obtain at least 8 continuous hours of sleep after driving for 10 hours or being on duty for 15 hours;

(b) Eliminate the allowance that provides drivers the use of sleeper berth equipment to cumulate 8 hours off-duty time in two separate periods;

(c) Prohibit employers, shippers, receivers, brokers, and drivers from accepting and scheduling shipments which would require the driver to exceed the HOS regulations in order to meet delivery deadlines;

(2) Mandating automatic on-board recording devices to monitor driver activities;

(3) Evaluation of driver compensation issues and their potential effect on HOS violations, accidents or fatigue; and

(4) Development and dissemination of training and materials to inform CMV drivers of the hazards of fatigued operation.

The FHWA continues to work with the Board on the fatigue problem. However, the FHWA believes the information provided from the NTSB's study conducted to date has not yet produced a sufficient range of scientifically valid findings that will allow the FHWA to propose, today, a wholesale revision of current rules governing on- and off-duty driver activities.

In March 1995, the FHWA held a Truck and Bus Summit in Kansas City, Missouri. The FHWA assembled participants who represented every segment of the U.S. motor coach and trucking industries. The number one issue of concern to the participants was driver fatigue.

Accordingly, the FHWA will continue to pursue a number of related studies that will contribute to a better understanding of the implications of fatigue upon highway safety. An approach geared toward driver proficiency will provide a much more viable, long-term solution to ensuring driver alertness. The FHWA's research on fitness-for-duty and work-and-rest cycles, for example, could generate devices and methods to quantitatively assess a driver's readiness and fitness to operate a CMV, based upon the operator's level of physical activity and his or her work and rest cycle history.

At the same time, the FHWA will continue to sponsor task forces, symposia, and working group meetings with domestic and foreign researchers and the scientific, medical, and safety communities to broaden collective knowledge and to facilitate an intelligent approach to resolution of this important issue. The FHWA will pursue efforts, both directly or through cooperative efforts with other safety-spirited organizations, to distribute fatigue-related accident countermeasure pamphlets, educational brochures, and public service announcements. Through these efforts, the FHWA hopes to raise public awareness on the subject and facilitate effective corrective actions.

The organization Parents Against Tired Truckers (PATT) petitioned the FHWA in March, 1996 to adopt an HOS rule that allows up to 12 hours maximum on-duty time and then would require a minimum of 12 hours off-duty

for rest. The PATT states that such a requirement would provide for the safety of CMV operators and the motoring public by promoting "alert drivers based upon the human body's need for rest and naturally occurring circadian rhythms experienced by every human." The petition also recommends that drivers maintain one log book (record of duty status (RODS)) annually. The log book would begin on January 1 and end on December 31, with an allowance for on-board computerized logs. This PATT petition will be incorporated into this rulemaking and will be available for review in the FHWA docket.

#### IV. Research

The first scientific study which addressed the HOS of U.S. commercial drivers was performed in the late 1930's. In the 1970's and the late 1980's, a few research studies were conducted. Many research studies have been and continue to be conducted over the last six years. These studies have advanced the collective understanding of loss of alertness, fatigue, sleep deprivation, and work/rest cycles for many operations that work round-the-clock. Many specific studies have been conducted in relation to CMV operations and have focused upon the desire to change the FHWA's HOS regulations. These studies are voluminous and a summary of each one is contained in the Appendix to this preamble at the end of this document.

#### V. Additional Substantive Data Needed

This ANPRM seeks additional substantive information on research, operational tests, and pilot regulatory programs that have not been discussed in this document or in the "Driver Fatigue and Alertness Study" literature reviews in the FHWA docket. The FHWA urges all interested parties to provide comments to help the agency take initial steps to formulate new conventional regulations and a performance-based system of the HOS requirements. The FHWA would like to gather any research and data that could be used in developing a system that ensures drivers will be alert while driving CMVs on public roads. The FHWA is not proposing specific HOS rules or requirements in this document. The FHWA is simply seeking additional information that may assist us in formulating proposals that would minimize crashes and regulatory burdens and that are cost-effective and simple to understand, comply with, and enforce.

#### VI. Questions

The FHWA needs public comment on the following specific questions. When responding to these questions, the FHWA asks you to identify each question by number and repeat that question in its entirety. Your cooperation will greatly expedite our compilation, review, and analysis of the docket comments. The FHWA would then, based upon research and comments relating to these questions, draft a new set of proposed HOS regulations. For example, the FHWA might keep the concept of the current HOS but simply change the specifics. The FHWA believes many driving performance and sleep/fatigue research findings could be applied directly to specific issues, so it would be possible to assess and compile comments directly relating to each issue. The FHWA believes that a consensus might emerge relating to most, if not all, of the following elements.

##### Research

1. Is there any other HOS-related research that should be considered that the FHWA has not mentioned in this document?

a. What non-CMV HOS-related research should be considered that would be applicable to CMV operation (such as research on airline pilots, railroad engineers, non-transportation-related workers, etc.) and why?

b. Are there additional HOS-related research studies from foreign countries that FHWA should consider?

##### Conventional Hours-of-Service

###### Driving Time (10 hour rule)

2. The FHWA regulations currently allow a driver to continuously drive up to a maximum of 10 hours after having had a minimum of 8 hours off duty. What should be the maximum allowable continuous driving time to enhance safety based upon scientific data? Please provide the scientific data that supports your answer.

###### Total on-Duty Time (15 hour rule)

3. The FHWA regulations currently allow a driver to drive and perform other non-driving duties up to a maximum of 15 hours after having had a minimum of 8 hours off duty. Should the FHWA provide a maximum continuous on-duty time period (driving time and on-duty time) for safety purposes based upon scientific data? Please provide the scientific data that supports your answer.

4. Should non-driving duty time be counted differently from driving time based upon scientific data? (e.g.,

loading, unloading, waiting, administrative time) Why? Please provide the scientific data that supports your answers.

###### Cumulative on-Duty Time (60 and 70 hour rules)

5. The FHWA regulations currently allow a driver to drive and perform other non-driving duties up to a maximum of 60 hours in a 7 day period of time or, up to a maximum of 70 hours in an 8 day period of time, dependent upon how many days a week the motor carrier conducts business. The driver may continue to be on-duty after the 60th or 70th hour; however, the driver is not allowed to drive CMVs. Is there a need or rationale to continue this provision? If so, what should be the maximum cumulative on-duty time and the applicable time period for safety purposes? Should there be two different periods? Please provide research data that supports your answers.

6. As stated previously in this document, Congress legislated 24-hour re-start provisions for certain types of motor carriers in section 345 of the National Highway Systems Designation Act of 1995, Pub. L. 104-59, 109 Stat. 568 (see also 61 FR 14677, April 3, 1996 for implementing regulations), and the FHWA allows 24-hour restarts for certain oilfield operations and certain emergency relief periods. Based upon scientific data, should there be a re-start provision (i.e., a minimum number of continuous hours off-duty to trigger a restart of the cumulative on-duty time period)? Why? Please provide the scientific data that supports your answer.

###### Off-Duty Time

7. The FHWA regulations currently require a driver to have a minimum of 8 consecutive hours off-duty prior to driving for a maximum of 10 hours or being on-duty for a maximum of 15 hours. What should the minimum consecutive off-duty time be for safety based upon scientific data? Please provide the scientific data that supports your answer.

###### Total Circadian Cycle

8. What should be the total daily work/rest cycle based upon scientific data (i.e., the "circadian cycle" implications of questions 2, 3, and 5 for safety purposes)? Please provide the scientific data that supports your answer. [Currently, a daily work-rest cycle of 18 hours is allowed by the FHWA HOS regulations.]

### Split Sleep—General

9. The FHWA regulations currently allow two periods totaling a minimum of 8 hours and the shortest of the two periods must be at least 2 hours in lieu of a consecutive 8 hour period of time. Based upon scientific data, should there be allowances for split-sleep off-duty hours? Please provide the scientific data that supports your answer.

### Rest Breaks

10. The FHWA understands that mandatory rest breaks are required in Europe and Australia during a long driving period. The FHWA understands that this was once required under Canadian regulations, also. The FHWA is very interested in receiving comments from foreign motor carriers, drivers, and government officials in Europe, Australia, and other nations in response to this question. Should the FHWA require mandatory rest breaks (suggested number and duration) during a long driving period? Why? Please provide the scientific data that supports your answer.

### Performance-Based Regulations

11. Has our scientific knowledge and data progressed to the point where performance-based regulations are technically feasible and operationally practical? (e.g., fleet management performance, individual driving performance—on-board monitoring, fitness for duty performance monitoring) If so, please cite studies. If not, what research and regulatory actions should be taken now to facilitate an eventual conversion to a primarily performance-based regulatory approach?

### Regulation of Driver Pay

12. Drivers are generally paid by the mile. If they do not have sufficient income, drivers may have to supplement their income by working additional hours outside of the motor carrier industry or violating the HOS regulations. This may compromise the intent of new HOS regulations and may only be mitigated in a performance-based system. In addition, CMV drivers are currently exempt from the overtime provisions of the Fair Labor Standards Act (FLSA, 29 U.S.C. 213(b)(1)). Should new HOS regulations depend upon how a driver is paid? How should such pay issues, (e.g., mileage, hourly, load, or some other measure) be addressed? Should legislation be sought to remove the FLSA exemption based upon scientific data? Why? What data is there to support your answer?

In addition to seeking specific recommendations (and rationales) relating to the questions above, the

FHWA seeks comments on the following issues related to these HOS provisions:

### Compliance Monitoring

13. For prescriptive-based regulations and performance-based regulations, answer each of the following questions separately. How should HOS regulatory compliance be measured or monitored? Who should monitor HOS regulatory compliance? How should HOS regulatory compliance be verified?

14. The FHWA regulations allow on-board monitoring devices to be used in lieu of conventional log books. Should the FHWA require on-board monitoring devices or other electronic methods (e.g., global positioning systems)? If the FHWA required these devices to be used, what would be the costs for small entities to purchase and maintain on-board monitoring devices or other electronic methods? This will help the FHWA determine the impacts upon small entities as is required under the Regulatory Flexibility Act (5 U.S.C. 601–612).

The FHWA also would like to know the answers to the following questions, but does not need these answers to formulate specific proposals for new HOS regulations.

### Conventional Hours-of-Service

#### Driving Time

15. The FHWA regulations currently require all CMV driving time to be recorded. What other motor vehicles (i.e., personal conveyances, automobiles, light duty trucks, small vans) should be included in the definition of driving time to enhance safety and productivity based upon scientific data? Please provide the scientific data that supports your answer.

#### Adverse Driving Conditions

16. The FHWA regulations currently allow 2 extra continuous driving hours if the driver encounters adverse driving conditions. How many, if any, extra continuous driving time hours should be allowed due to adverse driving conditions to enhance safety and productivity based upon scientific data? Please provide the scientific data that supports your answer.

#### Off-Duty Time

17. The FHWA has previously allowed time spent traveling in a CMV (bobtail or fully loaded) from en route terminals to motels and restaurants in the vicinity of the en route terminal to be considered off-duty. (A bobtail CMV is a tractor operating without a trailer.) The FHWA recently rescinded this

interpretation because this practice may produce additional fatigue and reduce available sleep time. Should the FHWA consider time spent traveling in a CMV (bobtail or fully loaded) from en route terminals to motels and restaurants in the vicinity of the en route terminal as driving time or off-duty time for safety purposes? Why? Please provide data that supports your answer.

18. The FHWA has previously allowed time spent traveling in a CMV (fully loaded or empty) from the work reporting/releasing location to the driver's residence to be considered off-duty. The FHWA recently rescinded this interpretation also because this practice may also produce additional fatigue and reduce available sleep time. This is especially true when a driver resides a long distance from the terminal where the driver is released from duty. When dispatched from the driver's residence, the FHWA's previous interpretation required the driver to consider the time as on-duty, driving time. Should the FHWA consider time spent traveling in a CMV (fully loaded or empty) from the work reporting/releasing location to the driver's residence as driving time or off-duty time for safety purposes? Why? Please provide data that supports your answer.

### Total Circadian Cycle

19. Should there be specific clock-time or "circadian trough/peak" provisions for safety purposes? Why? Please provide the scientific data that supports your answer.

20. Should early morning driving time (e.g., 1:00 a.m. to 5:00 a.m.) be more restricted than driving time during normal daylight driving time? Why? Please provide the scientific data that supports your answer.

21. Should there be regulatory relief for late morning or evening driving time (e.g., 8:00 a.m. to noon, or 7:00 p.m. to 11:00 p.m.)? When and why? Please provide the scientific data that supports your answer.

### Split Sleep—General

22. Should the FHWA allow split-sleep periods in facilities other than the sleeper berths to improve driver alertness? Why? Please provide data that supports your answer.

23. Should periods of less than 2 hours in the sleeper berth or other facility count toward the accumulation of a minimum off-duty period? Why? Please provide data that supports your answer.

24. Should the total minimum sleeper berth time change if split periods are used? Why? Please provide data that supports your answer.

25. What is the proportion of drivers who currently split their periods of off-duty time for purposes of rest or sleep? Please provide data that supports your answer.

26. How do drivers most commonly split their rest periods (6/2, 5/3, 4/4)? Please provide data that supports your answer.

27. If split sleep periods are allowed, should there be some minimum for the longer period of time to encourage at least one lengthy period of sleep daily? Why? Please provide data that supports your answer. (e.g., within the current 8 hour rule, there might be a requirement for one period to be at least six hours)

28. Should there be some minimum for the shorter period of time to encourage a minimum amount of rest? Why? Please provide data that supports your answer. (e.g., within the current 8 hour rule, there might be a requirement for one period to be at least three hours)

29. What is the proportion of drivers who utilize sleeping compartments while the CMV is in motion? Please provide data that supports your answer.

#### Split-Sleep Periods on Motor Coaches

30. Should the FHWA allow split-sleep periods for motor coach drivers who sleep in a motor coach passenger seat? Why? Please provide data that supports your answer. [The FHWA currently allows motor coach drivers to sleep or rest in a motor coach seat at certain times.]

31. Should the FHWA allow drivers to use sleeper berths built into the cargo compartment of motor coaches while the vehicle is in motion? Are there safety concerns that should be considered? Please provide data that supports your answer. [The FHWA is considering whether motor coach drivers should be able to sleep or rest in a motor coach cargo compartment at certain times.]

#### Exemptions

32. Should the FHWA allow exemptions, variations, or customizations of any specific provisions (e.g., local/short haul versus long haul, 4,537 to 11,794 kilograms [10,001 to 26,000 pounds] gross vehicle weight rated motor vehicles versus over 11,794 kilograms [26,000 pounds])?

#### Long-Haul Vs. Short-Haul Defined

a. How should the term "long-haul" be defined?

b. How should the term "short-haul" be defined? Should there be other definitions? [regional, local] How should they be determined? Why?

#### Variations by Weight of Vehicle

c. Should the HOS regulations be written in such a way that the weight or size of the CMV is considered? Why? (i.e., 4,537 kilograms (10,000 pounds) to 11,794 kilograms (26,000 pounds) gross vehicle weight rating versus weight ratings over 11,794 kilograms)

#### Variations by Cargo

d. Should the HOS regulations be written in such a way that the type of cargo transported is considered? Why? (i.e., hazardous materials versus non-hazardous materials, passengers (bus) versus freight, for-hire carriage versus private carriage)

e. Should the HOS rules for passenger carrier drivers differ from the HOS rules for other CMV drivers? If yes, why should the HOS rules be unique for passenger carrier drivers and how should they be different? Please provide scientific data that supports your answer.

#### Small Motor Carriers

f. Should the FHWA have special provisions for small business motor carriers? Why? (i.e., to be responsive to the Regulatory Flexibility Act (5 U.S.C. 601–612) requirements, see discussion below in Regulatory Analyses and Notices)

g. How should small business motor carriers be defined?

h. What should those special provisions be (e.g., less paperwork, different HOS limits, different rest periods, partial/total exemption)?

#### Other Segments Defined

i. Should the FHWA try to define any segments of the motor carrier industry? Why?

j. How should the FHWA define segments of the industry?

k. Should the FHWA present a matrix/table, in a subsequent NPRM, for comment?

#### Regulation of Shippers and Consignees

33. What consequences, if any, should be imposed upon a shipper or consignee if a driver violates the HOS requirements due to the actions or demands of the shipper or consignee?

34. How should the loading and unloading of freight, lumping, and engaging in activities other than driving be addressed? Please provide data that supports your answer.

35. How should situations where drivers encounter delays at shippers or consignees be considered in the proposal?

36. Should the FHWA seek legislation from Congress to regulate shippers and consignees to prohibit them from

making demands on a motor carrier and its drivers that would cause a violation of the HOS rules? Why?

#### Cost and Benefit Analyses

37. What are the costs and benefits that would be associated with HOS regulations and performance-based systems (these questions are being asked to help determine the cost-benefit and the paperwork burden associated with any HOS proposal)? Please address these following specific questions:

a. What would be the unit cost for each type of monitoring device? Please provide data that supports your answer.

b. How many hours would be necessary to process, review, and store each type of record? Please provide data that supports your answer.

c. How many records per driver, would be generated? Per motor carrier? Please provide data that supports your answer.

d. How many hours would be necessary to process these records? Please provide data that supports your answer.

e. What would be the unit cost for staff compensation to handle these records? Clerks? Management? Please provide data that supports your answer.

f. What would be the unit cost for staff fringe benefits who handle these records? Please provide data that supports your answer.

g. What are the various types and the average prices of each type of commercial space to collect, inspect, and store these records? Please provide data that supports your answer.

h. What is the unit cost of the non-productive staff time (holidays, vacations, training, breaks, meetings) that should be used? Please provide data that supports your answer.

i. What is the unit cost of staff supervision time (supervisory wages, salary, fringe benefits, staff space, and non-productive time)? Please provide data that supports your answer.

j. What is the type and average price of equipment used? Please provide data that supports your answer.

k. What are the types and average prices of furniture, supplies, and purchased services used? Please provide data that supports your answer.

l. Are there any economies of scale that could be used in the computations? Please provide data that supports your answer.

m. What are the unit costs for general and administrative services? Please provide data that supports your answer.

n. What are the unit costs for organizational overhead? Please provide data that supports your answer.

o. What is the average cost of CMV accidents involving human fatalities?

Please provide data that supports your answer.

p. What is the average cost of CMV accidents involving only bodily injuries, excluding fatalities? Please provide data that supports your answer.

q. What is the average cost of CMV accidents involving only property damage? Please provide data that supports your answer.

r. What is the average cost of lost productivity time for individuals injured in CMV accidents? Please provide data that supports your answer.

s. What other monetary considerations should the FHWA use in the cost and benefit analysis of the revised HOS regulations? Please provide data that supports your answer.

#### IX. Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in FHWA Docket MC-96-28 at the above address. Comments received after the comment closing date will be filed in FHWA Docket MC-96-28 and will be considered to the extent practicable, but the FHWA may issue an NPRM at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file, in the docket, relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

#### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined that this document may contain a significant regulatory action under Executive Order 12866. It is a significant regulatory action under the Department of Transportation's regulatory policies and procedures because this action has substantial public interest. In addition to the substantial public interest, the HOS regulations impose the largest paperwork burden on the FHWA's regulated industry. Any significant change to the HOS requirements, or their recordation requirements, will also have a significant impact upon the paperwork burden estimates.

The FHWA does not know what direction this rulemaking will take or what the economic impacts of any proposals will be in the future. The FHWA does not expect that this rulemaking will be inconsistent with any other agency actions or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Evaluation of the costs of this

rulemaking action cannot be determined at this time.

#### *Regulatory Flexibility Act*

To meet the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities and has preliminarily determined that this regulatory action will have a significant economic impact on a substantial number of small entities.

Although this document does not include any specific proposal at this time, the FHWA believes this action will lead to a proposed rule that will have a significant economic impact on a substantial number of small motor carriers. The FHWA requests small entities to comment on the questions asked in this advance notice (specifically the questions with respect to the costs and benefits of compliance and question 17 above), so that the FHWA may accurately determine the economic impacts any proposal will have on the small entities.

#### *Executive Order 12612 (Federalism Assessment)*

This action has been analyzed using the principles and criteria contained in Executive Order 12612, and it has been preliminarily determined that this proposal may have sufficient federalism implications to warrant the preparation of a federalism assessment.

Although there are no proposals in this document, any future proposals are expected to preempt State laws and regulations with respect to the HOS of interstate motor carriers and their drivers. These changes, if adopted, would limit the policy making discretion of the States. The additional costs or burdens that the FHWA would impose upon the States because of this action would be generated from the requirement that the States incorporate these future proposed changes into their safety regulations for interstate operations. The FHWA does not expect this action would infringe upon the State's ability to discharge traditional State governmental functions because interstate commerce, which is the subject of these regulations regarding interstate operations, has traditionally been governed by Federal laws. The FHWA expects that it would require, as a condition of the Motor Carrier Safety Assistance Program (MCSAP), the States to adopt these regulations for intrastate safety once they are promulgated.

In compliance with the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48), the FHWA will ask State and local governments to comment upon any proposals made to amend the

HOS regulations and the effects the changes will have upon the various State and local governments.

#### *Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

#### *Paperwork Reduction Act*

Under the OMB regulations, 5 CFR 1320, *Controlling Paperwork Burdens on the Public* (1995), the FHWA will be required to estimate the burden new regulations impose to generate, maintain, retain, disclose, or provide information to or for the FHWA. The FHWA believes that this rulemaking action will result in changes that would substantially reduce the collection of information requirements that are currently approved.

On January 25, 1994, the OMB approved the information collection request for driver's time cards under 49 CFR 395.1(e). It was assigned OMB control number 2125-0196. The information collection request estimates that the annual cost to the public is \$110,733,330. This is based upon 11,073,333 hours burden for alternative time records (motor carriers usually and customarily utilize time cards or time sheets for this purpose). See Table 2 for a summary of this information collection.

On February 23, 1995, the OMB approved the information collection request for driver's records of duty status under 49 CFR 395.8. The OMB assigned control number 2125-0016. This information collection request estimates an annual cost to the public of \$399,798,455. The estimate includes an annual time burden of 11,720,681 hours for records of duty status and supporting documents. See Table 2 for a summary of this information collection.

#### *Background of Past OMB Approvals*

*OMB Number:* 2125-0016.

*Title:* Driver's Record of Duty Status (RODS).

*Background:* Title 49 U.S.C. 31502 allows the Secretary of Transportation to promulgate regulations which establish maximum hours of service of employees of motor carriers. The Secretary has adopted regulations that require information to be recorded in a specified manner, but no specific form is required. The FHWA regulations allow motor carriers to make electronic

records produced through the use of automatic on-board recording devices, in lieu of making paper records. The FHWA estimates that these automatic on-board recording devices substantially reduce, by as much as 90 percent, the time involved in preparing, filing, and storing paper. The FHWA believes that the use of automatic on-board recorders continues to be uncommon and is not likely to grow significantly based upon the current regulations.

The RODS must be maintained with all supporting documents for a period of six months from the date of the RODS.

The FHWA believes the record keeping requirements are necessary for motor carriers and drivers to properly monitor their compliance with the HOS regulations. It is also necessary for Federal, State, and local officials who are charged with monitoring and enforcing the HOS regulations. The HOS regulations are allowed by statute to promote the safe operation of CMVs, and the FHWA believes this record keeping requirement is not unnecessarily duplicative of information that would otherwise be reasonably accessible to the FHWA.

Based upon improved data collection, the FHWA's 1996 data indicates there are 2,084,000 drivers and 390,000 motor carriers in interstate commerce that would be subject to the HOS regulations. The FHWA's data indicates

that 70 percent of CMV drivers operate farther than 100 air-miles from their normal work reporting location and 30 percent are eligible to use the 100 air-mile radius exception in § 395.1(e).

**Recordkeepers:** Approximately 1,452,000 CMV drivers.

**Average Burden per Response:** 2 minutes for driver's to prepare the daily record of duty status; 15 seconds per record for motor carriers to audit each record of duty status; and 5 seconds per record to file records of duty status and all supporting documents.

**Collection of Information Frequency:** RODS: Every day of the year. Two or more days off duty may be kept on one record. Supporting documents: Every day of work.

#### Time Records

**OMB Number:** 2125-0196.

**Title:** Time Records.

**Background:** Title 49 U.S.C. 31502 allows the Secretary of Transportation to promulgate regulations which establish maximum hours of service of employees of motor carriers. The Secretary has adopted regulations that require information to be recorded in a specified manner, but no specific form is required. The regulations allow motor carriers to make electronic time records, in lieu of making paper time records.

**Recordkeepers:** 632,000 CMV drivers or their motor carriers.

**Average Burden per Response:** 2 minutes per time card per day.

**Collection of Information Frequency:** Every day of work.

#### National Environmental Policy Act

The agency has analyzed this action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and has determined that this action will not affect the quality of the environment.

#### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

#### List of Subjects in 49 CFR Part 395

Global positioning systems, Highway safety, Highways and roads, Intelligent Transportation Systems, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

Issued on: October 29, 1996.

Rodney E. Slater,

Federal Highway Administrator.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN (CURRENTLY APPROVED)

OMB control No.	Section	No. of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per recordkeeper	Total hours
2125-0016—Expires Feb. 28, 1998 .....	395.8 & 395.15	1,864,587	200	372,917,400	0.0333	14,799,033
2125-0196—Expires Mar. 31, 1997 .....	395.1(e) .....	1,100,000	302	332,200,000	0.0333	11,073,333

#### Appendix to Preamble for FHWA Docket No. MC-96-28 RIN 2125-AD

##### A. Research Into the HOS of Drivers

Copies of all research reports mentioned below are included in the FHWA docket, number MC-96-28, and will be available for examination. In addition to comments and research reports received in response to this notice, the FHWA will also continue to file in the docket other research reports that become available after the publication of this document. Interested persons should continue to examine the docket for new material.

##### Prior Research

The first scientific study which addressed the HOS of U.S. commercial drivers was performed in the late 1930's. On April 25, 1938, the ICC requested the United States Public Health Service (USPHS) to conduct an investigation into the problem of fatigue and HOS of drivers of commercial motor vehicles operating in interstate commerce. See *Fatigue*

*and Hours of Service of Interstate Truck Drivers*, U.S. Public Health Service, Washington, D.C., Public Health Bulletin No. 265, 1941. The USPHS found that "it would \* \* \* appear that a reasonable limitation of the HOS would, at the very least, reduce the number of drivers on the road with very low functional efficiency. This, it might reasonably be inferred, would act in the interest of highway safety." Although the ICC indicated the need for further study, no further study was undertaken by USPHS or the ICC.

In the 1970's, the FHWA and its sister agency, the National Highway Traffic Safety Administration (NHTSA), conducted three studies which investigated driver performance and fatigue. They are reported in:

1. William Harris, et al. Human Factors Research, Inc., "A Study of the Relationships Among Fatigue, HOS, and Safety of Operations of Truck and Bus Drivers," (Springfield, VA, National Technical Information Service, 1972, (PB-213 963)).

The general findings of the study indicated that driver performance deteriorates, driver alertness (as reflected in psychophysiological arousal) diminishes, rest breaks become less effective, and accident probability increases, all within the 1972 10-hour daily limitation on driving time. The study also concluded that the situation would likely remain as long as drivers are rewarded economically in direct proportion to the amount of time spent on the highway.

2. Mackie, R.R., O'Hanlon, J.P., and McCauley M., Human Factors Research, Inc. "A Study of Heat, Noise, and Vibration in Relation to Driver Performance and Physiological Status," December 1974. This study measured the stressful effects of heat, noise, and vibration on the physiological status, feelings of alertness and fatigue, and actual driving performance of automobile and truck drivers under realistic conditions. The research found that heat and humidity between 80 and 85 degrees Fahrenheit WetBulb-Globe-Temperature (WBGT) index had somewhat adverse, but less dramatic,

effects on driver physiology and level of arousal for professional truck drivers than nonprofessional drivers. The WBGT is an index reflecting the combined effects of air temperature, air velocity, and relative humidity. The study's findings also indicated that the levels of fatigue and central nervous system arousal experienced by drivers were not systematically different for the different noise-vibration condition encountered.

3. Mackie, Robert R., and Miller, James C., Human Factors Research, Inc., "Effects of HOS Regularity of Schedules, and Cargo Loading on Truck and Bus Driver Fatigue," (Springfield, VA, National Technical Information Service, 1978 (PB-290-957)). The study's findings indicated 18 main points, including that: (a) Some cumulative fatigue occurs during 6 consecutive days of relay operations, but time of day strongly affects how much will be seen; (b) participation in moderately heavy cargo loading to the extent engaged in by many relay truck drivers increases the severity of fatigue associated with irregular schedules; (c) sleeper driver fatigue, physiological state, and performance are strongly affected by time of day; (d) bus drivers operating on irregular schedules suffer greater subjective fatigue and physiological stress than drivers on a regular schedule; and (e) the major problem posed by irregular operations is that the driver must at some time drive during those hours of the night when circadian depressions in psychophysiological arousal are substantial.

The U.S. Army Research Institute for the Behavioral and Social Sciences' "Prolonged Heavy Vehicle Driving Performance: Effects of Unpredictable Shift Onset and Duration and Convoy Versus Independent Driving Conditions" (September 1983, Technical Report 585) found that the effects of prolonged driving depend in part on *when* that prolonged driving takes place, rather than simply on the prolonged driving's actual *duration*. This was an empirical, field experiment that used twelve Army truck drivers in experimental trucks in a continuous convoy on four consecutive days on a pre-selected 300-mile route. The report notes that feelings of fatigue, overall, did not show dramatic change over time, although a trend was noticed in the pattern of performance deterioration toward the end of the late shift for drowsiness, exhaustion, and awareness-daydreaming-hallucinations. The conclusion was that it is the timing, and not the duration of the late shift, that makes driving more fatiguing.

In 1985, the American Automobile Association's (AAA) Foundation for Traffic Safety in "A Report on the Determination and Evaluation of the Role of Fatigue in Heavy Truck Accidents," examined about 250 accident reports of heavy truck accidents in six Western States. The study looked specifically at the driver's pre-accident activities and attempted to determine whether fatigue was a primary or probable cause of the accident. The study concluded that fatigue was the probable or primary cause of 41% of those heavy truck accidents.

In 1987, the Congressional Office of Technology Assessment's (OTA) report, "Gearing Up For Safety," concluded that

aggressive Federal research programs addressing fatigue and sleep issues and determining their role in truck accidents should be top priorities. The report also concluded that the FHWA should reexamine the HOS regulations, and develop revised standards based upon current knowledge.

This same OTA report noted that in the Insurance Institute for Highway Safety's "Sleeper Berth Use as Risk Factor for Tractor-Trailer Driver Fatality," evaluated the association of sleeper berth use in two periods and tractor-trailer driver fatalities. The study found that sleeper berth use increased the risk of fatality more than twofold. Night driving was also found to significantly increase the risk of truck driver fatality.

In February 1988, the Insurance Institute for Highway Safety in "Tractor-Trailer Driver Fatality: The Role of Nonconsecutive Rest In A Sleeper Berth," revised its earlier study of the association of sleeper berth use and tractor-trailer driver fatalities. The revised study found that sleeper berth use increased the risk of fatality more than threefold, not twofold as originally reported to Congress' OTA.

In June 1988, the Australia Transport and Communications' (ATC) Federal Office of Road Safety in "Driver Fatigue: Concepts, Measurement and Crash Countermeasures" (Report No. CR 72) reviewed the concepts and theories directly related to fatigue, the measurement of fatigue, and factors contributing to the onset and development of fatigue. Also reviewed was the degree to which fatigue is associated with road crashes, countermeasures having potential for offsetting the degrading effects of fatigue on safety, and an identification of research issues having promise for reducing the role of fatigue in crashes.

On November 29-30, 1988, the FHWA sponsored a symposium on truck and bus driver fatigue. Researchers in the area of fatigue and data collection attended, along with motor carrier participants. The primary purpose of this symposium was to identify research that was needed in the area of driver fatigue.

The DOT, in "Transportation-Related Sleep Research" (March 1989), reported to the Congress about the Department's actions in researching sleep and its effects on transportation safety. The report gave special emphasis to the efforts of NHTSA and FHWA related to the truck and bus industries. The discussion included the FHWA-sponsored symposium, past commercial driver fatigue- and alertness-related research, and future research to be undertaken.

The Institut National de Recherche sur les Transportes et Leur Securite's (INRETS) report, "Working Conditions of Drivers in Road Transport," (October 1989, ACTES INRETS No. 23) presented twelve research discussion abstracts written by various researchers from Canada, France, Germany, Ireland, Sweden, Netherlands, and the United Kingdom at a conference in France on June 3 and 4, 1988. Topics included "Sleepiness at Work: Measurement and Regulation," "Reviewing Fatigue and Driving," "Disposition of Waiting Time and the Waiting Behaviour of Truck-drivers,"

"Working Hours of European International Truck-Drivers," "Know-how in the Management of Working-Time and Safety," "Medical Survey of French Truck-Drivers: a Cross-sectional Study of the Most Frequent Pathologies," "Problem-Study of the Work of Heavy-goods Drivers in Quebec: Work Accomplished and Future Prospects," and "Regulations in Seven E.E.C. Countries Concerning Work Duration of Long Distance Lorry Drivers."

The NTSB published a study in February 1990, of 182 fatal-to-the-CMV-driver heavy truck accidents in eight States resulting in 207 fatalities. The NTSB's accident investigations considered the presence of fatigue, alcohol and other drugs, and medical factors involved in these accidents. Fatigue was implicated as a causal factor in 31 percent of these accidents.

The ATC's "NSW (New South Wales) Heavy Vehicle Crash Study Final Technical Report" (August 1990, Report No. CR 92 (FORS), CR 5/90 (RSB)) concluded that "heavy vehicle driver fatigue is clearly an important issue \* \* \* in at least 14 percent of (Australian) heavy vehicle crashes." The report indicated that the regulations should recognize that there are factors other than just the period of time at the wheel of the heavy vehicle that are important.

The FHWA's "HOS Study: Report to Congress" in November 1990, reported on the FHWA's progress in addressing driver fatigue. The report summarized prior research, discussed factors that had been identified with the onset of driver fatigue, and described the FHWA's current research efforts.

The Insurance Institute for Highway Safety's "Who Violates Work Hour Rules: A Survey of Tractor-Trailer Drivers" (January 1992) surveyed long-haul tractor-trailer drivers to estimate what proportion of drivers report that they regularly violate the HOS rules and to identify the drivers most likely to commit HOS violations. The survey found that almost three-fourths of the drivers responding to the survey violated the HOS rules. About two-thirds of the drivers reported that they routinely drive or work more than the allowable weekly maximum. The survey found that the primary impetus for violating the HOS rules appeared to be economic factors, including tight delivery schedules and very low driver earnings per mile rates (less than 30 cents per mile). The study reported many other driver, job, and vehicle characteristics significantly associated with the HOS violator.

The ATC's "Strategies to Combat Fatigue in the Long Distance Road Transport Industry, Stage 1: The Industry Perspective" (May 1992, Report No. CR 108) reported on an effort to gather information about the strategies that would be effective and practical in reducing driver fatigue. The study involved international authorities in the area of fatigue, major employer and employee organizations in Australia, and a questionnaire-based survey of drivers across Australia. The results of the study indicated that shorter trips and greater flexibility in organizing the trip, reducing driving in the early hours of the morning, improving roads, easing schedules, and improving loading and

unloading were all factors that were either related to lower levels of fatigue in drivers or were favored by them as ways of managing their fatigue.

The Upper Great Plains Transportation Institute's "Evaluation of the Impact of Changes in the Hours of Service Regulations on Efficiency, Drivers and Safety" (October 1992) surveyed the opinions of five large for-hire motor carriers and their drivers concerning the FHWA's 1992 proposed change to the HOS regulations. The study distributed 3,500 survey forms to these five motor carriers which, in turn, distributed the forms to their drivers. The study received 754 surveys. The study concluded that "[d]rivers, carriers, and society in general would appear to experience positive net gains from a change in the cumulative HOS rules from the current 70-in-8 day rule to a 24-hour restart provision." The study report clearly indicated that the survey was "in no way meant to be represented as a random sample."

The ATC's "Strategies to Combat Fatigue in the Long Distance Road Transport Industry. The Bus and Coach Perspective" (June 1993, Report No. CR 122) is a continuation of the May 1992 report discussed above. This report focuses upon bus and motor coach drivers (the previous report discussed only truck drivers). It also reported that bus and motor coach drivers typically report fatigue before the tenth hour of work, and most commonly in the early hours of the morning.

The Murdoch University Institute for Research into Safety and Transport's "Driver Impairment Fatigue and Driving Simulation: Conference Programme and Proceedings" (September 16-17, 1993, ISBN: 1 86308 014 7) reported on twenty five research projects that were presented at this 1993 conference. The twenty five research papers are included in the docket.

The Society of Automotive Engineers, Inc.'s "Changing Trucking to Match A Changing Work Force" (November 1993, SP-979) included papers on fatigue and sleep deprivation, as well as labor force trends and an overall review of changes that should take place. In "Driver Fatigue and Long Distance Truck Drivers: Implications for Trucking Operations," the author, James C. Miller of Miller Ergonomics, discusses scheduling of over-the-road, commercial trucking operations. He suggests that drivers who have work shifts that end just before dawn, should have their work-rest cycle altered to allow more time to rest during the 24 hours leading up to the end of the work shift. This additional period of time to rest could then be split between additional time for cumulative sleep and the introduction of time for a nap. In Merrill M. Mitler's report on "Sleep Deprivation and Its Consequences for Performance," he recommends five things. His recommendations include: (a) Recognition that present day risks due to fatigue-related human error necessitate accurate cost accounting of human error accidents and effective approaches to risk management; (b) round-the-clock work schedules must be biologically compatible with human sleep requirements; (c) drivers who transport the public or dangerous materials should be tested regularly for their

ability to stay awake on the job; (d) people with sleep pathology such as obstructive sleep apnea and narcolepsy must be identified and treated; and (e) the Federal government must take the lead in formulating new hiring and scheduling guidelines that do not place workers at jobs and on schedules for which they are biologically unsuited.

The University of Tennessee's "Driver-Related Factors Involved with Truck Accidents" (January 1994, STC Project No. 23385-019) study found that fatigue was not specified as a contributing factor in accident reports, but that truck drivers reported that fatigue was a major crash cause.

The ATC's "Strategies to Combat Fatigue in the Long Distance Road Transport Industry. Stage 2: Evaluation of Alternative Work Practices" (September 1994, Report No. CR 144) found that a 12 hour trip was fatiguing for drivers, irrespective of schedule. In particular, driving to a flexible schedule, where rest was taken on a "needs" basis rather than according to the breaks specified in current (Australian) regulations, was found not to be different than driving performance in driver-subjective outcomes. It also did not appear to make a difference whether the trip was "staged" or driven by a single driver. In addition, staged trip drivers were more fatigued at the beginning of the staged trip, compared to the other two trips that they undertook, and remained so at the end of these trips. The study concludes that the effects of accumulated or chronic fatigue may overshadow the effects of acute or short-term fatigue, at least within a 12 hour trip.

The NTSB's January 1995 publication, "Factors That Affect Fatigue in Heavy Truck Accidents," PB95-917001, NTSB/SS-95/01, examined factors believed to influence driver fatigue. Since the study was not meant to be a study of the incidence of fatigue, the NTSB specifically selected truck accidents that were likely to include fatigue-related accidents, such as single-vehicle accidents that occurred at night. Based upon its review of 107 accidents, using a multivariate statistical analysis (a multiple discriminant analysis), the NTSB found the most important factors in predicting a fatigue-related accident in its sample to be the duration of the driver's last sleep period, the total hours of sleep obtained during the 24 hours prior to the accident, and split sleep patterns.

The FHWA has also placed in the docket a paper entitled "Management of Fatigue in the Road Transport Industry" which was distributed by the Second International Conference on Fatigue in Transportation at Fremantle, Western Australia (February 1996). The discussion paper states that "over the final two days of the conference, delegates discussed the characteristics of fatigued drivers and what steps could be taken to measure and limit fatigue by Government, the transport industry, and the community who are both drivers and clients of the transport industry." The paper provides recommendations at the conclusion of the discussion of each item.

The ATC's "Strategies to Combat Fatigue in the Long Distance Road Transport Industry. Stage 2: Evaluation of Two-up Operations"

(December 1995, Report No. CR 158) suggests that the best strategy to manage fatigue on very long trips may be the judicious use of effective night rest in combination with two-up driving. The study used a regular pre-selected route. The route typically took 100 hours to complete and was a total distance of 4,500 kilometers. The route traversed remote zones. The report concludes that the most effective improvements in managing fatigue must take into account the overall work practices, including activities in the past week, activities before driving begins as well as the way in which the trip is structured.

#### *Current FHWA Research in Relation to Fatigue and Alertness*

##### *Driver Fatigue and Alertness Study*

The FHWA's motor carrier research and technology program has undertaken research into driver fatigue and loss of alertness. The program incorporates and integrates physiological, psychological, and performance testing technologies. The research began in earnest in 1989, with the award of the baseline "Driver Fatigue and Alertness Study" to the Essex Corporation, Goleta, California, and a companion study of physiological measures of alertness awarded to the Trucking Research Institute (TRI) of the American Trucking Associations Foundation in 1990. For over six years, this massive piece of research has encompassed one of the most technologically and logistically complex field research activities concerning CMV drivers ever conducted—in either the U.S. or the world. This significant piece of research forms the basis for many of the following human factor studies examining driver fatigue and alertness that will be conducted by the FHWA in the years to come.

The FHWA's commercial driver fatigue and alertness effort is being coordinated with the NHTSA and with other DOT operating administrations that support related research on operator alertness, especially the Federal Aviation Administration (FAA) and the Federal Railroad Administration. At the same time, ongoing interaction with the various motor carrier industry associations and drivers' groups continues. These include the TRI, the National Private Truck Council's Private Fleet Management Institute (PFMI), the Owner-Operators Independent Drivers' Association (OOIDA), the Independent Truck Driver's Association, the International Brotherhood of Teamsters, Transport Canada, the Private Motor Truck Council of Canada, and the Canadian Trucking Association.

In 1996, the FHWA will conclude the multi-year, baseline study of Driver Fatigue and Alertness. It has been accomplished with the significant cooperation of five research contractors, two governments (U.S. and Canada), two industry associations, three participating motor carriers, and 80 professional drivers and their management and labor representatives. The overall intent of this research has been to:

1. Provide a technically sound basis for evaluating the current HOS requirements for CMV operators; and
2. Identify potentially effective countermeasures for reducing fatigue and increasing driver alertness.

Through the efforts of these various participants and the combined scientific expertise they offer, the "Driver Fatigue and Alertness Study" has obtained information on a broad range of interrelated items involving the driver/vehicle environment, such as:

1. Driver performance and vehicle operating parameters;
2. Objective and subjective measures of driver psychological and physiological state; and
3. The vehicle operating environment (e.g., cab temperature and air quality).

The TRI has participated with the FHWA in providing assistance to help collect, review, and analyze physiological data from the same driver test subjects. Additionally, the TRI, Transport Canada, and the Canadian Trucking Research Institute have provided financial and on-site assistance to the project.

During the test phase, data were collected through driver field testing for four different driving and operating conditions. A set of field experiments, designed to replicate a range of carrier operations, performed under real world conditions, were undertaken:

1. A "baseline" U.S. operation, consisting of a regular daytime schedule of 10 hours of driving;
2. An "operational" U.S. schedule, which saw driving start and end at different times of the day and night. This schedule was chosen to permit the assessment of a varying schedule set to maximize distance traveled, and yet adhere to the 10-hour driving limit and 8-hour off-duty requirement now in effect;
3. A 13-hour daytime driving schedule operated in Canada which, while longer than the U.S. regulations currently allow, is permitted in certain Canadian provinces. The FHWA was interested in learning if this extended schedule may promote increased driver alertness by keeping the driver's work and rest cycles closer to a 24-hour circadian time table; and
4. A 13-hour nighttime driving schedule, again undertaken in Canada, to ascertain if extended nighttime driving, while on a regular schedule, had adverse effects upon driver performance.

Concurrent with this study, the FHWA undertook, in early 1995, a survey of 500 drivers to assess current use, and to determine potential application of safe, legal, and effective fatigue-reducing and alertness-enhancing countermeasures.

The study was the most comprehensive "operational" study ever performed and benefitted from unprecedented international partnerships among governments, industry, and research communities. The study has already demonstrated that these partnerships are needed to develop solutions to the fatigue and alertness problem.

The FHWA anticipates that a final report of the "Driver Fatigue and Alertness Study" will be made available to the public this autumn. A copy of the final report will be placed in the public docket when it is completed.

At congressional direction, in 1991, 1992, and 1993, the FHWA has undertaken a series of additional studies associated with driver fatigue. These research efforts are:

1. Longer Combination Vehicle Driver Fatigue and Stress Study;
2. Driver Work and Rest Needs Study;
3. Interstate Rest Area Availability Study;
4. Obstructive Sleep Apnea Study;
5. Commercial Driver Fitness-for-Duty Testing Study; and
6. Performance of Older Commercial Drivers Study.

#### *Longer Combination Vehicle Driver Fatigue and Stress Study*

Section 4007 of the Intermodal Surface Transportation Efficiency Act (ISTEA), Pub. L. 102-240, 105 Stat. 1914, directed the Department to perform a study on the possible effect of multiple-trailer combination vehicle (MTCV) operations on driver stress and fatigue. Working together with the Battelle Human Affairs Research Center and the Oregon Trucking Association, the FHWA and the NHTSA directed this 24-driver, 2,700 mile study that used specially equipped and loaded single and triple-trailer combination vehicles under controlled experimental conditions. Typical operating conditions were encountered and standard operating practices were followed. Tractors were equipped with video and digital equipment to gather data on the drivers' performance during the study.

Test drivers answered standardized questionnaires concerning their perception of stress and fatigue during the driving day. In addition, measurements were taken of the drivers' physiological responses, mental processes associated with driving safety and performance, and driving performance. Of the nineteen measures used in the study, only two produced statistically significant results. These were a measure of perceived workload, and a measure of steering wheel reversals. Interestingly, only the drivers' *subjective perception* of increased workload while driving MTCV's suggested that such operations might result in increased driver stress and fatigue.

This study indicated that the most important contributing factor in predicting stress or fatigue is the driver. Tolerance of potentially fatiguing conditions varies a great deal among professional truck drivers. The study also has shown that, although the number of trailers attached to the tractor may influence a drivers' *subjective* estimate of his or her fatigue, the related *objective* measures of performance and physiological condition registered very little, if any, difference. It appears that vehicle variations alone are not significant predictors of driver fatigue and stress under these conditions (e.g., drivers, daytime driving, 12 consecutive hours off-duty).

#### *Driver Work and Rest Needs Study*

This study is designed to assess the work and rest needs of CMV drivers. Working with the Walter Reed Army Institute of Research, the FAA, and the National Institutes of Health (NIH), the FHWA seeks to determine driver performance and physiological and subjective states after varying amounts of sleep. This study is using four new and different technologies to develop a means by which alertness-related performance can be measured and driver proficiency predicted

(i.e., performance-based technology). This study is projected to be completed in late 1997. The study will also attempt to determine how much off-duty time is required to ensure a driver obtains enough sleep to be sufficiently rejuvenated to safely operate a CMV.

#### *Interstate Rest Area Availability Study*

The TRI and its subcontractors studied the adequacy of truck parking at public rest areas on the Dwight D. Eisenhower Interstate Highway System and private truck stops adjacent to those highways. States were surveyed about parking capacity and restrictions at public rest areas. The research also observed truckers' usage of public and private stops along Interstate Route 81, interviewed CMV drivers, and surveyed motor carriers and private truck stop operators about the perceived need for, and availability of, Interstate CMV parking. Based partly upon this information, assessments of utilization and demand for public and private parking spaces for CMVs were also undertaken. A final report on the study's findings was completed in May 1996.

#### *Obstructive Sleep Apnea Study*

Working with the TRI and the University of Pennsylvania Hospital, the FHWA is responding to congressional direction to examine the problem of obstructive sleep apnea among CMV operators. The overall goals of the study are to:

1. Obtain a more precise estimate of obstructive sleep apnea based upon CMV operators' responses to a questionnaire regarding the prevalence of sleep apnea in a sample of CMV drivers who may be at high risk because of the disorder; and
2. Estimate the level of sleep apnea (i.e., identify a threshold of apneatic episodes during sleep) at which the CMV drivers may be operating while impaired.

First identified in the 1960's, obstructive sleep apnea has been recognized as a major health problem, affecting millions of Americans. The prevalence of obstructive sleep apnea among CMV drivers may be greater than the four percent estimated in the general male population. Truck driving is largely a sedentary occupation and, therefore, conducive to obesity. Obesity, along with age and high blood pressure, is associated with an increased risk of obstructive sleep apnea.

Because obstructive sleep apnea is a disorder characterized by breathing cessations, it interrupts restful sleep. The quality of sleep is greatly diminished due to frequent awakenings. Identified as a leading cause of excessive daytime sleepiness, obstructive sleep apnea has been found to greatly increase the potential for accidents among sufferers. Thus, it poses a potentially significant risk to drivers of CMVs and, in turn, the motoring public.

To obtain an accurate estimate of the prevalence of obstructive sleep apnea among the CMV driver population, the University of Pennsylvania Hospital first conducted a pilot test to validate a questionnaire using 200 truck drivers drawn from the TRI's list of operators. Results of that pilot test, obtained in January 1995, demonstrated the feasibility of such a sampling effort in obtaining

information about apneatic conditions from the CMV driving population. During 1996, a full-scale sample will be undertaken, with results provided on the prevalence of obstructive sleep apnea among the CMV driving population.

#### *Commercial Driver Fitness-for-Duty Testing Study*

At congressional direction, the FHWA also has sought to identify and test technologies, both in-terminal and in-vehicle, that will detect and identify a driver who is not fit for duty. An initial study, begun by the TRI and its partner Systems Technology, Inc. (STI) in 1993, undertook an evaluation of the accuracy and reliability of four fitness-for-duty performance tests. The research evaluated the testing devices to determine their effectiveness at motor carriers' terminals, and also sought to determine if miniaturized versions of the equipment could be successfully used in-cab, to test drivers away from their home terminal.

Data were collected on drivers' test results, driver and motor carrier management acceptance of the tasks, the effects of terminal and in-cab environments on the hardware, and system reliability and maintainability. The conclusion of this initial study was that in-cab testing was feasible. The findings of the study also recommended that, for a motor carrier's program to work effectively, testing had to be made mandatory, and the motor carrier had to permit drivers failing the test to stop driving and take a rest without penalty.

In early 1995, the FHWA entered into a second phase of fitness-for-duty testing, also with the TRI and STI. More frequent monitoring of driver alertness was instituted. Using a second-generation version of in-vehicle testing equipment employed in the first generation's effort, the TRI and its subcontractor also added a lane tracking device to monitor the driver's fitness-for-duty. Under the proposed study design, a driver using this device must first establish a "baseline" of performance that documented his or her own ability to keep a vehicle in its lane. If a deviation from the baseline is detected, the driver would be alerted. If the deviation continues, both the driver and the motor carrier would be notified. The test driver then would be required to stop the vehicle at the nearest safe location and take a five minute test. Depending upon the test results, the driver would either be permitted to continue driving or be required to sleep, or nap, before continuing to drive.

The NHTSA is focusing on continuous monitoring of drivers in its research on commercial driver fitness-for-duty testing. The ultimate goal is to produce a practical vehicle-based driver alertness monitor for use in heavy vehicles. The technologies employed include systems to evaluate the driver's steering and lane tracking performance, and his or her psychophysiological condition (principally eye activity). A contemporary and complementary fitness-for-duty study to the FHWA's research, the Carnegie-Mellon Research Institute is conducting the NHTSA's research. This research will use several equipment prototypes mounted in

two CMVs. This work is based upon previous driving simulator studies at the Virginia Polytechnical Institute and State University. It will produce a recommended specification for heavy vehicle driver alertness monitors, including both detection algorithms and appropriate driver warning devices.

#### *Performance of Older Commercial Drivers Study*

In 1993, the Congress directed the FHWA to undertake research to determine the influence of age on CMV drivers' performance. Again relying on the services of the TRI and subcontractors, the study investigated 15 human perceptual, cognitive, and psychomotor abilities. Age, by itself, was not found to be a significant predictor of driving performance. Nevertheless, older CMV drivers (defined in this study as 50 years or older) are more likely to demonstrate age-related perceptual, cognitive, and psychomotor impairments which directly influence driving performance. However, their performance was improved after they had taken training.

#### *B. Future FHWA Research Envisioned*

A number of new research projects are planned for 1996 and beyond that will evaluate driver performance and needs. A number of these will be undertaken in response to congressional recommendation and direction. Topics include:

- a. Assessment of Technological Interventions;
- b. Impact of Loading and Unloading Commercial Vehicles on Driver Fatigue and Alertness;
- c. Drivers Engaged in Local/Short Haul Operations;
- d. Sleeper Berth Use and Fatigue;
- e. Shipper and Consignee Involvement in Driver HOS Violations;
- f. Scheduling Practices;
- g. Driver Proficiency and Wellness; and
- h. Crash Investigation Project.

#### *Assessment of Technological Interventions*

In 1996, the FHWA, in cooperation with the TRI, will begin an assessment of the most promising technological interventions and other countermeasures identified in the Driver Fatigue and Alertness Study and other research. Individual interventions and countermeasures will be field-tested and evaluated in terms of their feasibility and cost-effectiveness. Also with the TRI, the FHWA will develop, evaluate, and disseminate educational and training programs targeted at CMV drivers, dispatchers, risk managers, and shippers. Current knowledge about fatigue and effective countermeasures, including ways CMV drivers can recognize impending drowsiness, will be explained.

#### *Impact of Loading and Unloading Commercial Vehicles on Driver Fatigue and Alertness*

In 1978, Human Factors Research, Incorporated (now Essex Corporation) conducted a study for the NHTSA which included a limited assessment of the influence of driver fatigue on cargo loading and unloading. Using a simulated loading task, the study sought to determine if cargo

loading either enhanced or reduced the CMV driver's alertness. The results indicated mixed effects on the driver's subjective feelings, physiological status, and performance. It appeared to researchers that performing the loading task had "some beneficial activating effects that persisted for much of the driving stint, especially during late night/early morning trips." Yet, the final report also found "considerably greater incidence of 'critical incidents' involving sleepiness or lack of attention for drivers who engaged in moderate work."

The limited 1978 assessment left unresolved the issue of whether substantial periods of loading and unloading a CMV would introduce or exacerbate fatigue to such an extent that driving would be impacted. The FHWA has for many years desired to further assess the effects of this simulated loading task, in particular on long-distance, over-the-road operators engaged in interstate commerce. The FHWA has deferred action on this important effort in order to first complete the multi-year "Driver Fatigue and Alertness Study" and, thus, be able to employ driver assessment technologies validated in that study in the evaluation of the impact of loading and unloading. In 1996, in response to congressional direction, the FHWA is initiating a study of this frequent work requirement.

As currently proposed, the study will be undertaken in two phases. The first phase, carried out in cooperation with the TRI and the PFMI, will undertake a critical literature review which: (1) Concentrates on the effects of physical activity on alertness, fatigue, and performance; (2) identifies critical variables for field study; and (3) identifies appropriate measures and measurement technology. The FHWA believes it is important to understand, from the motor carrier industry perspective, what actual physical requirements are being imposed on drivers by representative types of cargo being transported. Once these activities are completed, a second phase of study will assess the actual physical demands imposed in performing loading and unloading tasks by examining an appropriate industry segment and its work schedule. This second phase will include the collection of on-the-road measurements of driver alertness, fatigue, and performance. The second phase will provide a report that analyzes the relationship between the loading/unloading requirement and fatigue.

#### *Drivers Engaged in Local/Short-Haul Operations*

The local/short-haul operations segment of the motor carrier industry engages in work practices which distinguish it from the long-haul, over-the-road interstate operation. Chiefly, these practices are characterized by pick-up and delivery activities which result in the vehicle operator engaging in non-driving activities (e.g., package pick-up and delivery) which consume a significant portion of the driver's work day. This type of CMV driving was originally intended to be included in the baseline "Driver Fatigue and Alertness Study" begun in 1989. It had to be postponed due to financial constraints and the need to focus resources on the significant data analysis activity required by the over-

the-road portion of the study. In fiscal year 1996, in response to congressional direction, the FHWA plans to award a contract for a study focusing on driver fatigue in local/short-haul operations. The planned study will employ both direct observation (i.e., instrumented vehicle studies) and driver interviews and focus groups. These will help to determine the role played by fatigue and related factors in driver errors and incidents involving local/short-haul truck operations. In addition, the study will: (1) Analyze crash statistics involving driver fatigue and related factors as principal or contributing causes of local/short-haul commercial vehicle crashes; and (2) investigate a sample of crashes to obtain more in-depth crash causation data. The study will also compare local/short-haul to long-haul operations in terms of driver fatigue, associated safety concerns, and the overall safety picture.

#### *Sleeper Berth Fatigue*

In its limited 1978 study, Human Factors Research, Incorporated, assessed the impact of sleeper berth use. That study indicated that CMV drivers who rely upon sleeper berths for rest demonstrated performance effects of sleep degradation, such as lower scores on hand-eye coordination tests and a higher incidence of lane drifting and drowsiness. The FHWA intends to award a study, in 1996, that will assess the impact of sleeper berth use upon the level of driver alertness. The study would assess the quality of rest achieved while the vehicle is both stationary and in motion. Because sleeper berth users tend to operate on irregular schedules, the FHWA would like to include in the research an evaluation of the effects of irregular schedules and sleeper berth use.

#### *Shipper and Consignee Involvement in Driver HOS Violations*

The Senate Report to the 1996 Department of Transportation and Related Agencies Appropriations Act called upon the FHWA to "sign a contract before November 1, 1995, to conduct research to determine the scope,

nature, and extent of shipper involvement in noncompliance with the safety regulations" (S. Rep. No. 126, 104th Cong., 1st Sess. 97 (1995)). This year, the FHWA has undertaken both contractual and in-house tasks to satisfy this requirement. The FHWA has engaged Calspan Corporation to undertake a series of focus group sessions and in-depth interviews. This undertaking will generate qualitative data about the state of shipper (and consignee) demands on the motor carrier industry and its drivers. Concurrent with this effort, the FHWA will seek to identify and analyze existing data that may help define the scope of the problem, pinpoint factors that appear to be related to driver violations of the HOS regulations, and eliminate others which do not appear to be correlated. Subsequent tasks still remain to be determined, with their selection and design to be linked, in part, to initial findings. The FHWA may decide to test specific segments of the motor carrier industry where evidence indicates, for example, that time-sensitive deliveries are the norm and pressure from shippers and consignees may tend to be greater than the norm.

The FHWA envisions that this study will indicate some important safety issues, and is prepared to work with the Congress and various industry groups toward their resolution. Such resolution might involve a determination of effective enforcement and educational activities that would help to reduce any misunderstanding about the critical need for driver compliance with the HOS rules.

#### *Scheduling Practices*

Concurrent with the shipper study, the FHWA, in 1996, will also begin surveying a variety of CMV drivers, motor carriers, and shippers to determine the prevalence of various shipping and scheduling practices, associated driving schedules, and possible effects of fatigue. This work will be undertaken in cooperation with the TRI and the PFMI. A proposed outcome of this

research would be a symposium of recognized experts in shift work, traffic management, trucking operations, and trucking safety, convened to review the survey findings and make appropriate recommendations for safer operations.

#### *Driver Proficiency and Wellness*

As the current decade draws to a close, the FHWA plans to expand its efforts on behalf of the CMV driver beyond the traditional areas of fatigue detection and prevention. The demand for fast, efficient passenger and cargo delivery is placing increasing pressures upon drivers. This is resulting not only in immediate performance decrement, but also long-term stress. Consequently, our efforts to counteract fatigue and stress must not only continue but be expanded to promote the creation of positive models of driver wellness and proficiency. At this stage, the FHWA believes that non-regulatory approaches being developed by the National Motor Carrier Advisory Committee's Subcommittee on Drivers, the PFMI, and the OOIDA, such as education, could be the key to the success of this effort. Such wellness education might address such lifestyle issues as nutrition, exercise, and, of course, sleep.

#### *Crash Investigation Project*

This project, planned to begin in 1996, will compile a database of in-depth crash investigation reports from the various States and other sources in order to determine the contributing factors, causes, fault, or reasons for truck and bus crashes. This CMV crash causation study is intended to employ a comprehensive classification of crash causes (including drowsiness/fatigue as well as other forms of driver inattention) and a broad, representative sample of CMV crashes. The FHWA regards these as critical methodological elements in any valid study of CMV crash causation.

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**Part VII**

**Department of  
Transportation**

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**Coast Guard**

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**46 CFR Part 28  
Commercial Fishing Industry Vessel  
Regulations; Interim Rule**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****46 CFR Part 28****[CGD 96-046]****RIN 2115-AF35****Commercial Fishing Industry Vessel Regulations****AGENCY:** Coast Guard, DOT.**ACTION:** Interim Rule with request for comments.

**SUMMARY:** This interim rule adopts requirements for safety equipment and vessel operating procedures on commercial fishing industry vessels. The Coast Guard is issuing these regulations to improve the overall safety of U.S. Commercial Fishing Industry Vessels pursuant to the Commercial Fishing Industry Vessel Safety Act of 1988 and to make several technical corrections.

**DATES:** This interim rule is effective on February 3, 1997, except for § 28.120 on survival craft which is effective May 5, 1997. Written comments must be received on or before December 20, 1996.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

**FOR FURTHER INFORMATION CONTACT:** Commander Mark D. Bobal, Project Manager, G-MSO-2, telephone (202) 267-0836.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 88-079a) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. Persons desiring an acknowledgment that their comments were received should include a self-addressed stamped postcard or envelope.

The Coast Guard plans no public meetings. Persons may request a public meeting by writing to the Marine Safety Council at the address under

**ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If local presentations will aid this rulemaking, the Coast Guard will hold a public meeting at a time and place announced by a later notice in the Federal Register.

**Background and Regulatory History****Commercial Fishing Industry Vessel Safety Act of 1988**

On September 9, 1988, title 46, United States Code, was amended in chapter 45 (Uninspected Commercial Fishing Industry Vessels, sections 4501 through 4508) by the Commercial Fishing Industry Vessel Safety Act of 1988, Pub. L. 100-424 ("the Act"). The Act requires the Secretary of Transportation to prescribe regulations for safety equipment and vessel operating procedures on commercial fishing industry vessels. The Secretary further delegated the authority to regulate commercial fishing vessel to the Commandant of the Coast Guard. This rulemaking was initiated to implement certain provisions of the Act. This rulemaking project does not include requirements pertaining to immersion suits (found in CGD 88-079c, Notice of Proposed Rulemaking dated May 20, 1993) or vessel stability; these provisions will be included in future rulemaking.

**Advance Notice of Proposed Rulemaking (ANPRM)**

An ANPRM was published in the Federal Register on December 29, 1988 (53 FR 52735), addressing potential requirements for uninspected fishing, fish processing, and fish tender vessels. In response to this ANPRM, nearly 200 comment letters were received and considered in developing the Notice of Proposed Rulemaking.

**Notice of Proposed Rulemaking (NPRM)**

On April 19, 1990, the Coast Guard published a NPRM in the Federal Register (55 FR 14924), addressing proposed requirements for uninspected fishing, fish processing, and fish tender vessels. In response to the NPRM, the Coast Guard received 500 comments. On August 14, 1991, in order to expedite the regulation package for commercial fishing industry vessels, the Coast Guard published a final rule.

**Final Rule (FR)**

A final rule entitled "Commercial Fishing Industry Vessel Regulations" was published in the Federal Register

(56 FR 40364). These regulations are for U.S. documented or state numbered uninspected fishing, fish processing and fish tender vessel to implement provision of the Commercial Fishing Industry Vessel Safety Act of 1988. The final rule indicated that the below listed controversial topics would be the subject of a subsequent supplemental notice of proposed rulemaking (SNPRM).

**Supplemental Notice of Proposed Rulemaking (SNPRM)**

On October 27, 1992, the Coast Guard published a SNPRM in the Federal Register (57 FR 48670). The controversial topics addressed in the SNPRM included the Aleutian Trade Act of 1990 (Pub. L. 101-595); stability for fishing vessels less than 79 feet in length; administration of exemptions authorized by 46 U.S.C. 4506; termination of unsafe operations; requirements for survival craft on fishing vessels with 3 or fewer individuals on board operating within 12 miles of the coastline and outside the boundary line; and acceptance criteria for instructors and course curricula.

This interim rule adopts the SNPRM with some changes. It does not include the provisions relating to the Aleutian Trade Act, and stability for fishing vessels less than 79 feet in length.

On October 24, 1995, the Coast Guard published a final rule relating only to the Aleutian Trade Act (60 FR 54441).

Currently, the Coast Guard is working with the Commercial Fishing Industry Vessel Advisory Committee to finalize the stability section for vessels less than 79 feet in length which was included in the SNPRM. The Coast Guard received comments that this section was too confusing, too costly, and did not address the real causes of vessel losses. The comments suggested that the majority of problems encountered by commercial fishing vessels were not caused by instability, but by uncontrolled flooding which then resulted in vessel instability. Therefore, the stability section of the SNPRM is being held in abeyance until further notice.

**Discussion of Comments and Changes**

In response to the SNPRM, the Coast Guard received 794 comments during the 120-day comment period. The major concern expressed during the comment period pertained to proposed survival craft requirements. Over 400 comments were opposed to the proposed requirements. The Coast Guard received 326 comments opposing the stability criteria as written, while only five comments supported the stability

criteria. Other letters expressed agreement or comment on the other topics.

Of those comments for which the source could be positively identified, 464 were from commercial fishermen, 63 from companies directly related to the fishing industry, 62 from the general public, 50 from organizations or associations representing groups of individuals such as fishermen or vessel owners who are involved in the fishing industry, 28 from manufacturers of safety equipment to which this chapter applies, and 18 from naval architects. Several comments were received from shipyards, government agencies, insurers of commercial fishing vessels, and equipment suppliers.

The Coast Guard considered existing relevant international standards for commercial fishing vessels throughout the development of this rule. Regulations I/3 of the International Convention for the Safety of Life at Sea, (SOLAS), exempts fishing vessels. However, in order to meet the demands of the market place, and in anticipation of the Coast Guard rulemaking to make Ocean and Limited Service liferafts obsolete (59 FR 52590; October 18, 1994), manufacturers have almost entirely shifted their production to SOLAS A and SOLAS B liferafts to promote manufacturing efficiency. These SOLAS A and SOLAS B liferafts are the same liferafts required for inspected vessels under Subchapter W (61 FR 25272; May 20, 1996) and do not exceed the prescribed international standards for such liferafts.

The Coast Guard also reviewed other international standards concerning fishing vessels that are proposed but not yet ratified by the International Maritime Organization. The regulations do not establish requirements in excess of those found in the Torremolinos International Convention for the Safety of Fishing Vessels dealing with the construction and equipment standards, and the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessels, (STCW-F).

The following discussion summarizes the comments and explains substantive changes made to the SNPRM in response to the comments. Comments are categorized by the specific section of the CFR to which they apply. In addition to these changes, editorial changes have been made to clarify the rule or standardize terminology. The following sections have changes that are purely editorial: 28.80(a)(2), 28.120(h), 28.225(3) (i) and (ii), 28.320(b)(1), 28.380(j) and 28.555 (c) and (d).

1. *Section 28.50 Definitions.* The terms "Alcohol concentration", "Coast Guard Boarding Officer" and "District Commander", although appearing in 33 CFR 95.010, 33 CFR 177.03 and 46 CFR 1.01-05(b) respectively, are defined here for the public's clarification and convenience. The definition of "Coastline" found in this section is taken from 33 CFR 2.05-10, Territorial Sea Baseline. The term "Especially hazardous condition" is added as a result of the new 28.65, which addresses termination of unsafe operations. The terms "Auxiliary Craft", "Buoyant Apparatus", "Coastal Service Pack", "Equipment Pack", "Inflatable Liferaft", "Inflatable Buoyant Apparatus", "Lifeboat" and "Liferaft" are defined for 28.120. The terms "Fishing Vessel Drill Conductor" and "Fishing Vessel Safety Instructor" have been added due to the new 28.275, which addresses acceptance criteria for instructors and course curricula.

2. *Section 28.60 Exemption Letter.* This section addresses exemptions authorized under section 4506 of the Commercial Fishing Industry Vessel Safety Act (46 U.S.C. 4501-4508). The Act provides for exemptions in section 4506(a) when good cause exists for granting an exemption and when the safety of the vessel and those on board will not be adversely affected. While Congress provided for exemptions, the intent was not to reduce the Act's safety equipment and operating provisions.

The SNPRW would have allowed each District Commander to handle specific exemption requests under 46 U.S.C. 4506. However, the Coast Guard determined that many vessels transit between Districts and that localized exemptions could create confusion and inconsistencies in granting of the exemption. As a result, exemptions will be granted by the Commandant, acting through the Chief of the Compliance Office (G-MOC). However, the exemption requests will be submitted in writing via the cognizant District Commander.

All requests will be reviewed by the District Commander and forwarded with the recommendation to Commandant (G-MOC), prior to the issuance of an exemption. This will allow District Commanders, who are most familiar with area conditions and hazards, to fully evaluate the acceptability of a particular exemption request. If granted by Commandant (G-MOC), the exemption will be accompanied by a letter specifying the conditions under which the exemption is being issued. This accompanying letter will have to be kept on board the vessel for the term of the exemption. Exemptions granted

may be rescinded by Commandant (G-MOC) if it is determined that the safety of the vessel and those onboard is adversely affected.

Exemptions for a class or fleet of vessels will also be required to be submitted in writing to the District Commander. If Commandant (G-MOC) grants an exemption, it will be accompanied by a letter specifying the terms under which it is issued. This letter, or suitable copy, will be required to be maintained on each vessel. Any person directly affected by a decision or action taken under this part may appeal in accordance with subpart 1.03 of this chapter.

3. *Section 28.65 Termination of unsafe operations.* This section contains criteria for the termination of unsafe operations under 46 U.S.C. 4505.

When a Boarding Officer determines that an especially hazardous condition exists, the official may direct, with the concurrence of the District Commander, or staff authorized by the District Commander to handle commercial fishing vessel termination matters, the master or individual in charge of the vessel to return the vessel to a mooring until the especially hazardous condition is corrected. Other possible enforcement options include, but are not limited to, the following:

1. Requiring immediate correction of the hazardous condition.
2. Filing of a Report of Violation against the owner, master, or individual in charge of the vessel.
3. Referral to the Marine Safety Office or Marine Inspection Office for investigation and possible suspension and revocation action against any Coast Guard issued licenses.

The Coast Guard realizes that terminating a commercial fishing vessel's operations may have a serious economic impact to vessel owners and employees. However, the safety of individuals on board vessels should be the highest priority. When an operation is considered to be life threatening or has the possibility of leading to a serious injury, immediate cessation of that operation is warranted.

Guidance on terminating operations was published in Navigation and Vessel Inspection Circular Number 12-91 issued on September 13, 1991. The Commercial fishing fleet population is estimated to be over 120,000 vessels. In 1993, there were only 130 instances nationwide where conditions aboard commercial fishing industry vessels warranted the termination of the vessel's voyage. In 1994, this number decreased to 59 cases.

There were comments suggesting that Coast Guard Boarding Officers were ill-

equipped and untrained to adequately determine the stability of a vessel and that Boarding Officers should not be making termination decisions without additional training or support. In response to these concerns, the Coast Guard has determined that no vessel operation should be terminated without the approval of the cognizant District Commander or his/her staff authorized to make this determination. Thus, as a safeguard against any indiscriminate judgment, a Boarding Officer may not terminate vessel operations independently, but must objectively assess the vessel's condition and report the facts to his/her superiors who, in turn, will evaluate the situation surrounding the case and make the final determinations.

4. *Section 28.120 Survival craft.* The Coast Guard received 518 comments opposing the proposed survival craft requirements. The main objection to the carriage of survival craft was that requiring additional equipment on small vessels might act contrary to the intended purpose of the Act and could actually create hazards, inhibit stability, and thus reduce safety on smaller, near shore vessels.

The Coast Guard agrees in part and, therefore, is modifying the requirements for a buoyant apparatus as a minimum requirement for vessels 10.97 meters (36 feet) or more in length operating within 12 miles of the coastline. The Coast Guard is also revising its proposed regulation to exempt all documented or undocumented commercial fishing industry vessels less than 10.97 meters (36 feet) in length with 3 or fewer individuals on board operating within 12 miles of the coastline from having to carry any form of survival craft. Thus, a buoyant apparatus is required for all documented or undocumented vessels 10.97 meters (36 feet) or more in length with 3 or fewer individuals on board operating within 12 miles of the coastline.

Several comments misinterpreted the phrase "less than 4 individuals" to mean 4 or fewer individuals. To reduce confusion, the Coast Guard has changed the language to reflect that a vessel less than 10.97 meters (36 feet) in length with "3 or fewer individuals" on board is exempt from survival craft carriage.

Other comments opposed the requirement because many individuals operate "day boats" that fish in groups during daylight hours, in fair weather, and inside the Boundary Line, which are likely to receive immediate aid from other vessels in an emergency. The Coast Guard disagrees. Day boat operations may be relatively safe under ideal conditions; however, in less than

ideal weather conditions, the advantage of day boat operations will be lessened because the proximity to other vessels may be lost.

5. *Section 28.270 Instruction, drills, and safety orientation.* Paragraph (c) of this section is revised to reflect instructor and training requirements for licensed individuals to meet the requirements of section 28.275.

6. *Section 28.275 Acceptance Criteria for Instructors and course curricula.* This section will require a Fishing Vessel Safety Instructor to be trained in the proper procedures for conducting the drills required of federally documented commercial fishing industry vessels that operate beyond the Boundary Line or with more than 16 individuals on board. Accepted instructors must meet a minimum Coast Guard standard of qualification and the course curricula will need to be evaluated for content and consistency. Requirements for acceptance of safety instructors and course curricula were published in Navigation and Vessel Inspection Circular Number 7-93 issued on August 24, 1993.

Several comments urged that the Red Cross, firefighters, police officers, U.S. Coast Guard Auxiliary and 100 ton Coast Guard license holders not be certified to conduct the required training. Other comments urged that safety instructors be required to receive specialized background and training to teach effectively. The Coast Guard agrees in part and has limited the scope of the regulations pertaining to the qualifications for Fishing Vessel Safety Instructors.

Additionally, the Commercial Fishing Industry Vessel Advisory Committee has determined that a minimum of 8 hours of instruction is sufficient to fulfill the training requirement. Several comments indicated that an 18 hour minimum time frame would be a more appropriate requirement since the increased class time would allow a broader understanding of the ten contingencies and course content. However, the main concern is that the course be long enough to instill confidence, knowledge, and the belief that repetitive drills in the work place will save lives and enhance emergency preparedness.

Several comments also recommended that individual training certifications be renewed every 5 years so that trainers will be required to update materials and knowledge at periodic intervals. The Coast Guard agrees and has issued letters of acceptance for 5 year intervals only, ensuring that trainers update their materials and training in a timely manner.

In order to clarify confusion over the differences between Coast Guard "accepted" and Coast Guard "approved" training courses, the following applies to this Subchapter: "Accepted" means that the course has met the criteria established by the local cognizant Officer in Charge, Marine Inspection (OCMI), while "Approved" means it has met the criteria established by the Commandant. This rule allows the OCMI's to accept courses and instructors at the local level without having to submit the paperwork to the Commandant for approval. Also, any individual or training institution that utilizes the "Personal Survival and Emergency Drills Course", a national standard curriculum developed through a cooperative agreement for the U.S. Coast Guard by the New Jersey Marine Science Consortium, will meet the criteria established by the Commandant. This document can be ordered at cost through the United States Marine Safety Association (USMSA), 1900 Arch Street, Philadelphia, PA 19103-1498, (215) 564-3484, fax (215) 963-9785.

Although there is no current requirement that drills be logged, the Coast Guard encourages operators of commercial fishing industry vessels to log or document all drills and instruction carried out aboard their vessels.

Organizations are included in the definition of the term "Fishing Vessel Safety Instructor." The Coast Guard is aware that a large number of schools employ instructors to teach specific sections of the curriculum. The term "organization" has been added to the definition of Fishing Vessel Safety Instructor.

An organization providing training must ensure that all persons responsible for conducting the training collectively have the required qualifications. Instructors in an organization accepted under a collective arrangement and limited by their field of expertise (i.e., liferaft or firefighting professional) are authorized to conduct only the applicable portion of the curriculum that is related to their experience.

Several comments suggested that the rule require in-the-water practicum. Although survival training in-the-water is highly encouraged to demonstrate how to use survival equipment, the Coast Guard understands the potential financial and legal burden if incorporated in this rule.

Other comments suggested a required hands-on training session for the use of various safety equipment. However, given the wide variety and different types of safety equipment available and the expense to maintain and replace, a

requirement for hands-on training may prove too restrictive. Training programs must remain flexible and practical to minimize the resistance to training. The standards contained in these regulations are considered minimum standards. However, the Coast Guard encourage the fishing and training industry to promote hands-on training. Drills can be simple and cost-effective.

Several comments questioned whether the Fishing Vessel Drill Conductor or individuals in charge of the vessel should be the master. The Coast Guard has determined that the Fishing Vessel Drill Conductor is any individual that has been trained in the proper procedures as outlined in 28.270.

Several comments questioned whether a one-person operation should practice the repetitive and required safety drills. The Coast Guard has determined that because of the benefits derived from safety training, even one-person operations must be required to undergo training and drills. Someone other than the vessel operator is permitted to come aboard the vessel to discuss and undergo drills for the contingencies listed in the regulations.

#### Technical Corrections

In response to comments, the following technical corrections are being made to part 28. These technical clarifications are being made to improve regulatory consistency.

7. *Section 28.80(a)(2)*. The definition of injury found in part 4 of this chapter has been changed from "incapacitated for a period in excess of 72 hours", to "requires professional medical treatment and renders the individual unfit to perform his/her duties".

8. *Section 28.120(h)*. The provision of this section requiring vessels less than 10.97 meters (36 feet) in length to meet "positive flotation" is changed to read "flotation" only. The term "positive flotation" is not one of the two flotation standards referenced in 33 CFR 183.

9. *Section 28.225(3) (i) and (ii)*. The National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), which annually publishes the Tide and Tidal Current Predication Tables, is experiencing a shortage of funds to print and distribute these tables. Therefore, the wording for these two sections will be changed from tide and tidal current tables published by NOS, to tide and tidal current tables promulgated by NOS. Tide and current tables are being printed by the following companies from original NOS data files: International Marine Division, McGraw Hill Company, P.O. Box 545, Blacklick, OH 43004-0504 telephone No. 1-800-722-4726 and REED'S Nautical

Almanacs, Thomas Reed Publications, Inc., 13A Lewis Street, Boston, MA 02113, telephone No. 1-800-995-4995.

10. *Section 28.320(b)*. The unit of conversion to cubic meters was incorrect for this section. This section is changed to reflect 1200 cubic feet to equal 33.98 cubic meters and 6000 cubic feet to equal 169.92 cubic meters.

11. *Section 28.380(j)*. This section contains both a specific and general metric conversion of the unit of three feet. For consistency in this section, a hard conversion of three feet equals 0.9144 meters is used.

12. *Section 28.555 (c) and (d)*. As an oversight, a limiting factor was never placed in the formula for freeing ports as was intended. This section is changed to reflect the formula found in American Bureau of Shipping Rules for Steel Vessels under 61 meters (200 feet).

#### Metric (SI) Conversion

The interim rule has been revised to include metric units using the International System of Units (SI) for all measures with the exception of Nautical Miles (NM) and Knots. English units immediately follow the metric conversions in parenthesis throughout the regulations.

#### Regulatory Assessment

This interim rule is a non-significant regulatory action under 3(f) of Executive Order 12866 and is non-significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040), February 26, 1979). It has not been reviewed by the Office of Management and Budget under that Order. The Coast Guard has prepared a regulatory assessment and placed it in the rulemaking docket. The assessment may be inspected and copied at the address listed under **ADDRESSES**.

The Coast Guard estimates that the total discounted costs accrued by industry as a result of this rule will be \$9.8 million. The estimated benefits attributable to this rule are expected to total \$30.95 million annually, or a savings of 11 lives and 10 vessels. When the benefits are considered over ten years and discounted to 1996, the resultant cost-benefit ratio is \$25 of benefits for each dollar of cost.

The Coast Guard believes there are over 120,000 commercial fishing boats. An estimated 90-95 percent of the total number of commercial fishing industry vessels are independently owned. Commercial fishing vessels are predominantly operated and owned by small businesses. Therefore, virtually the entire domestic industry can be said to be composed of small businesses with

total annual revenues estimated to be over \$2.5 billion.

The general provisions of this rule, to include provisions pertaining to exemption letters and termination of unsafe operations, are estimated to provide a benefit to industry of approximately \$17.45 million.

The cost of these regulations is estimated to be minor with respect to commercial fishing vessels less than 10.97 meters (36 feet) in length. Vessels less than 10.97 meters (36 feet) in length will be exempted from survival craft requirements and incur no costs. However, if a vessel of this size engages in commercial fishing beyond 12 miles then it will be required to obtain a buoyant apparatus at an estimated cost of under \$500 with no annual recurring cost. An estimated 20,000 state numbered or documented commercial fishing vessels will be affected by this rule.

The criteria for training fishing vessel instructors is presently found in Navigation and Vessel Inspection Circular 7-93 dated August 24, 1993. To implement the training for fishing vessel instructors, it will cost \$25 if an entity (individual or organization) adopts the National Curriculum. To set up a program with visual aids, a program could be assembled for a start up cost of between \$1,500 and \$5,000. It is estimated that 1,000 entities will provide the training found in this section, and that 75 percent of these entities currently meet the requirements of the section.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard developed this rule in accordance with the March 29, 1996 amendments to the Regulatory Flexibility Act (enacted as Chapter 8 of Title 5, U.S. Code), incorporating several provisions intended to assist small entities. These provisions include allowing for the use of an existing national standard training curriculum to meet training requirements, exempting certain vessels from the regulations completely, and allowing for exemptions to be granted when good cause exists for an exemption.

The economic impact of these regulations on commercial fishing

industry vessels 10.97 meters (36 feet) or more in length may be more significant depending upon the safety equipment already on board these vessels. A vessel 10.97 meters (36 feet) or more in length operating within 12 miles of the coastline will incur a capital cost estimated to be between \$400 and \$500 with no annual recurring cost. The cost is the same for part-time and seasonal operators as it is for full-time operators. Therefore, this rule will not have a significant economic impact on small entities.

#### Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This rule contains collection-of-information requirements in the following sections: § 28.60, § 28.80, § 28.90 and § 28.275. The following particulars apply:

*DOT No:* 2115.

*OMB Control No:* 2115-0582.

*Administration:* U.S. Coast Guard.

*Title:* Commercial Fishing Industry Vessel Regulations.

*Need for Information:* The requirement for letters of exemption is to provide documentation to boarding officers and to ensure that the master knows that the vessel is exempt from a particular regulation. The course curricula and letters of acceptance for instructors are required to ensure that course content of instructor training is within the Coast Guard's guidelines.

*Proposed Use of Information:* To verify compliance with the regulations and to enhance the safe operation of fishing vessels.

*Frequency of Response:* On Occasion.

*Burden Estimate:* 12,530 hours per year.

*Respondents:* 18,225 Fishing Vessel Operators, Trainers and Instructors.

*Form(s):* Not applicable.

*Average Burden Hours Per*

*Respondent:* .7 Hours per respondent.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act for sections § 28.60, § 28.80, § 28.90, and § 28.275, however, OMB approval has not been finalized. Individuals and organizations may

submit comments by December 5, 1996 on the information collection requirements in this interim rule and should direct them to the Executive Secretary, Marine Safety Council as indicated under **ADDRESSES** and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, room 10235, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for DOT. The Coast Guard will publish a notice in the Federal Register of OMB's decision to approve, modify, or disapprove the information collection requirements.

#### Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule established additional safety standards for commercial fishing industry vessels. The authority to regulate the safety of commercial fishing vessels in all navigable waters is committed to the Coast Guard by statute. Furthermore, since commercial fishing vessels tend to move from port to port in the national marketplace, safety standards for commercial fishing vessels should be of national scope to avoid unreasonably burdensome variances. Therefore, the Coast Guard intends to preempt State action addressing the same subject matter.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. These rules are expected to have no significant effect on the environment. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

#### List of Subjects in 46 CFR Part 28

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard amends Chapter I, Title 46, Code of Federal Regulations, part 28 as follows:

### **PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS**

1. The authority citation for part 28 is revised to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; 49 CFR 1.46.

2. Section 28.50 is amended by adding the following definitions in alphabetical order to read as follows:

#### **§ 28.50 Definition of terms used in this part.**

\* \* \* \* \*

*Alcohol concentration* means either grams of alcohol per 100 milliliters of blood, or grams of alcohol per 210 liters of breath.

\* \* \* \* \*

*Auxiliary Craft* means a vessel that is carried onboard a commercial fishing vessel and is normally used to support fishing operations.

\* \* \* \* \*

*Buoyant Apparatus* means a buoyant apparatus approved by the Commandant.

*Coastal Service Pack* means equipment provided in liferafts approved by the Commandant for coastal service.

\* \* \* \* \*

*Coast Guard Boarding Officer* means a commissioned, warrant, or petty officer of the Coast Guard having authority to board any vessel under the Act of August 4, 1949, 63 Stat. 502, as amended (14 U.S.C. 89).

\* \* \* \* \*

*Coastline* means the Territorial Sea Baseline as defined in 33 CFR 2.05-10.

\* \* \* \* \*

*District Commander* means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within a district.

*Equipment Packs* means equipment provided in liferafts approved by the Commandant.

*Especially hazardous condition* means a condition which may be life threatening or lead to serious injury if continued.

\* \* \* \* \*

*Fishing Vessel Drill Conductor* means an individual who meets the training requirements of 46 CFR 28.270(c) for conducting drills and providing instruction once a month to each individual on board those vessels to which Subpart C of this section applies.

*Fishing Vessel Safety Instructor* means an individual or organization that has been accepted by the local Officer-in-Charge, Marine Inspection to train Fishing Vessel Drill Conductors to conduct drills and provide instruction on those vessels to which subpart C of this part applies.

\* \* \* \* \*

*Inflatable Buoyant Apparatus* means an inflatable buoyant apparatus approved by the Commandant.

*Inflatable Liferaft* means an inflatable liferaft that is approved by the Commandant.

\* \* \* \*

*Lifeboat* means a lifeboat approved by the Commandant.

*Liferaft* means a liferaft approved by the Commandant.

\* \* \* \*

4. Section 28.60 is added to read as follows:

**§ 28.60 Exemption Letter.**

(a) *Specific exemption.* A commercial fishing industry vessel may be exempted from certain requirements of this part upon written request if Commandant (G-MOC) determines:

(1) Good cause exists for granting an exemption; and

(2) The safety of the vessel and those on board will not be adversely affected.

(b) *Class exemption.* The Commandant (G-MOC) may issue an exemption applicable to a class or fleet of vessels. Such an exemption will be in writing and will specify the terms under which the exemption is granted.

(c) *Exemption procedure.* Requests for exemptions must be sent to the cognizant Coast Guard District Office for review. The District will forward the exemption letter, along with a District endorsement recommending a desired course of action to Commandant (G-MOC), who will then make all final determinations. Upon making a final decision, Commandant (G-MOC) will forward the decision to the cognizant District Office for distribution to the party or parties requesting the exemption.

(d) *Exemption letter.* Exemption letters, or suitable copies, describing the terms under which the exemption is granted shall be maintained at all times on board each vessel to which any exemption applies.

(e) *Right of appeal.* Any person directly affected by a decision or action taken under this part may appeal in accordance with § 1.03 of this chapter.

(f) *Rescinding an exemption letter.* Exemptions granted may be rescinded by Commandant (G-MOC) if it is subsequently determined that the safety of the vessel and those onboard is adversely affected.

5. Section 28.65 is added to read as follows:

**§ 28.65 Termination of unsafe operations.**

(a) A Coast Guard Boarding Officer may direct the master or individual in charge of a vessel, with the concurrence of the District Commander, or staff authorized by the District Commander, to immediately take reasonable steps necessary for the safety of individuals

on board the vessel if the Boarding Officer observes the vessel being operated in an unsafe manner and determines that an especially hazardous condition exists. This may include directing the master or individual in charge of the vessel to return the vessel to a mooring and remain there until the situation creating the especially hazardous condition is corrected or other specific action is taken.

(b) Hazardous conditions include, but are not limited to, operation with—

(1) An insufficient number of lifesaving equipment on board, to include serviceable Personal Flotation Devices (PFDs), serviceable immersion suits, or adequate survival craft capacity.

(2) An inoperable Emergency Position Indicating Radio Beacon (EPIRB) or radio communication equipment when required by regulation. There should be at least one operable means of communicating distress. When both are required, then at least one must be in operable condition to avoid termination of the voyage;

(3) Inadequate firefighting equipment on board;

(4) Excessive volatile fuel (gasoline or solvents) or volatile fuel vapors in bilges;

(5) Instability resulting from overloading, improper loading or lack of freeboard;

(6) Inoperable bilge system;

(7) Intoxication of the master or individual in charge of a commercial fishing vessel. An individual is intoxicated when he/she is operating a commercial fishing vessel and has an alcohol concentration of .04 percent, or the intoxicant's effect on the person's manner, disposition, speech, muscular movement, general appearance or behavior is apparent by observation;

(8) A lack of adequate operable navigation lights during periods of reduced visibility;

(9) Watertight closures missing or inoperable;

(10) Flooding or uncontrolled leakage in any space; or

(11) An expired endorsed Load Line Certificate, when required.

(c) A Coast Guard Boarding Officer may direct the individual in charge of a fish processing vessel that does not have on board a Load Line Certificate issued by the American Bureau of Shipping or a similarly qualified organization to return the vessel to a mooring and to remain there until the vessel obtains such a certificate.

6. In 28.80, paragraph (a)(2) and paragraph (d)(1) are revised to read as follows:

(a) \* \* \*

(2) An injury that requires professional medical treatment (treatment beyond first aid) and that renders the individual unfit to perform his or her routine duties.

\* \* \* \*

(d) \* \* \*

(1) Marine Index Bureau, Inc., 67 Scotch Road, Ewing, NJ, 08628-2504.

\* \* \* \*

7. Section 28.120 is revised to read as follows:

**§ 28.120 Survival craft.**

(a) Except as provided in paragraphs (b) through (h) of this section and 28.305, each vessel must carry the survival craft specified in Table 28.120(a), Table 28.120(b), or Table 28.120(c), as appropriate for the vessel, in an aggregate capacity to accommodate the total number of individuals on board.

(b) The requirements of this section do not apply to vessels less than 10.97 meters (36 feet) in length with 3 or fewer individuals on board which operate within 12 miles of the coastline.

(c) A buoyant apparatus may be substituted instead of the requirements in this section for vessels 10.97 meters (36 feet) or more in length with 3 or fewer individuals on board which operate within 12 miles of the coastline.

(d) Each survival craft installed on board a vessel before September 15, 1991, may continue to be used to meet the requirements of this section provided the survival craft is—

(1) Of the same type as required in Tables 28.120(a), 28.120(b), or 28.120(c), as appropriate for the vessel type; and

(2) Maintained in good and serviceable condition.

(e) Each inflatable liferaft installed on board a vessel before September 15, 1991, may continue to be used to meet the requirements for an approved inflatable liferaft, provided the existing liferaft is—

(1) Maintained in good and serviceable condition as required by Table 28.140; and

(2) Equipped with the equipment pack required by Tables 28.120(a), 28.120(b), or 28.120(c), as appropriate for the vessel type. Where no equipment pack is specified in Tables 28.120(a), 28.120(b), or 28.120(c), a coastal service pack is the minimum required.

(f) A lifeboat may be substituted for any survival craft required by this section, provided it is arranged and equipped in accordance with part 199 of this chapter.

(g) The capacity of an auxiliary craft carried on board a vessel that is integral to and necessary for normal fishing

operations will satisfy the requirements of this section for survival craft, except for an inflatable liferaft, provided the craft is readily accessible during an emergency and is capable of safely holding all individuals on board the

vessel. If the auxiliary craft is equipped with a Coast Guard required capacity plate, the boat must not be loaded so as to exceed the rated capacity.

(h) A vessel less than 10.97 meters (36 feet) in length that meets the flotation provisions of 33 CFR part 183 is exempt

from the requirement for survival craft in paragraph (a) of this section for operation on—

(1) Any waters within 12 miles of the coastline.

(2) Rivers.

TABLE 28.120(a).—SURVIVAL CRAFT FOR DOCUMENTED VESSELS

Area	Vessel type	Survival craft required
Beyond 50 miles of coastline .....	All .....	Inflatable liferaft with SOLAS A pack.
Between 20–50 miles of coastline, <i>cold</i> waters .....	All .....	Inflatable liferaft with SOLAS B pack.
Between 20–50 miles of coastline, <i>warm</i> waters .....	All .....	Inflatable liferaft.
Beyond Boundary Line, between 12–20 miles of coastline, <i>cold</i> waters.	All .....	Inflatable liferaft.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	10.97 meters (36 feet) or more in length.	Inflatable buoyant apparatus. See note 2.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See note 2.
Beyond Boundary Line, within 20 miles of coastline, <i>warm</i> waters.	All .....	Life float.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	10.97 meters (36 feet) or more in length.	Inflatable buoyant apparatus.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See note 2.
Inside Boundary Line, <i>warm</i> waters; or Lakes, bays, sounds, <i>warm</i> waters; or Rivers, <i>warm</i> waters.	All .....	None.
Great Lakes, <i>cold</i> waters .....	10.97 meters (36 feet) or more in length.	Inflatable buoyant apparatus. See note 2.
Great Lakes, <i>cold</i> waters .....	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See note 2.
Great Lakes, beyond 3 miles of coastline, <i>warm</i> waters .....	All .....	Buoyant apparatus.
Great Lakes, within 3 miles of coastline, <i>warm</i> waters .....	All .....	None.

NOTE: 1. The hierarchy of survival craft in descending order is lifeboat, liferaft with SOLAS A pack, inflatable liferaft with SOLAS A pack, liferaft with SOLAS B pack, inflatable liferaft with SOLAS B pack, inflatable liferaft with coastal service pack, inflatable buoyant apparatus, life float, buoyant apparatus. A survival craft higher in the hierarchy may be substituted for any survival craft required in this table.

2. If a vessel carries 3 or fewer individuals within 12 miles of the coastline, see § 28.120 (b) and (c) for carriage substitution.

TABLE 28.120(b).—SURVIVAL CRAFT FOR UNDOCUMENTED VESSELS WITH NOT MORE THAN 16 INDIVIDUALS ON BOARD

Area	Vessel type	Survival craft required
Beyond 20 miles of coastline .....	All .....	Inflatable buoyant apparatus.
Beyond Boundary Line, between 12–20 miles of coastline, <i>cold</i> waters.	All .....	Inflatable buoyant apparatus.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	10.97 meters (36 feet) or more in length.	Buoyant apparatus.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See note 2.
Beyond Boundary Line, within 20 miles of coastline, <i>warm</i> waters.	All .....	Life float.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or rivers, <i>cold</i> water.	10.97 meters (36 feet) or more in length.	Buoyant apparatus.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> water.	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See note 2.
Inside Boundary Line, <i>warm</i> waters; or Lakes, bays, sounds, <i>warm</i> waters; or Rivers, <i>warm</i> waters.	All .....	None.
Great Lakes, <i>cold</i> waters .....	All .....	Buoyant apparatus. See note 2.
Great Lakes, beyond 3 miles of coastline <i>warm</i> waters .....	All .....	Buoyant apparatus. See note 2.
Great Lakes, within 3 miles of coastline <i>warm</i> waters .....	All .....	None.

NOTE: 1. The hierarchy of survival craft in descending order is lifeboat, liferaft with SOLAS A pack, inflatable liferaft with SOLAS A pack, liferaft with SOLAS B pack, inflatable liferaft with SOLAS B pack, inflatable liferaft with coastal service pack, inflatable buoyant apparatus, life float, buoyant apparatus. A survival craft higher in the hierarchy may be substituted for any survival craft required in this table.

2. If a vessel carries 3 or fewer individuals within 12 miles of the coastline, see § 28.120 (b) and (c) for carriage substitution.

TABLE 28.120(c).—SURVIVAL CRAFT FOR UNDOCUMENTED VESSELS WITH MORE THAN 16 INDIVIDUALS ON BOARD

Area	Vessel type	Survival craft required
Beyond 50 miles of coastline .....	All .....	Inflatable liferaft with Solas A pack.

TABLE 28.120(C).—SURVIVAL CRAFT FOR UNDOCUMENTED VESSELS WITH MORE THAN 16 INDIVIDUALS ON BOARD—  
Continued

Area	Vessel type	Survival craft required
Between 20–50 miles of coastline, <i>cold</i> waters .....	All .....	Inflatable liferaft with SOLAS B pack.
Between 20–50 miles of coastline, <i>warm</i> waters .....	All .....	Inflatable liferaft.
Beyond Boundary Line, between 12–20 miles of coastline, <i>cold</i> waters.	All .....	Inflatable liferaft.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	10.97 meters (36 feet) or more in length.	Inflatable buoyant apparatus. See note 2.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See note 2.
Beyond Boundary Line, within 20 miles of coastline, <i>warm</i> waters.	All .....	Life float.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	10.97 meters (36 feet) or more in length.	Inflatable buoyant apparatus. See Note 2.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See Note 2.
Inside Boundary Line, <i>warm</i> waters; or Lakes, bays, sounds, <i>warm</i> waters; or Rivers, <i>warm</i> waters.	All .....	None.
Great Lakes, <i>cold</i> waters .....	10.97 meters (36 feet) or more in length.	Inflatable buoyant apparatus. See note 2.
Great Lakes, <i>cold</i> waters .....	Less than 10.97 meters (36 feet) in length.	Buoyant apparatus. See note 2.
Great Lakes, beyond 3 miles of coastline <i>warm</i> waters .....	All .....	Buoyant apparatus. See note 2.
Great Lakes, within 3 miles of coastline <i>warm</i> waters .....	All .....	None.

NOTE: 1. The hierarchy of survival craft in descending order is lifeboat, liferaft with SOLAS A pack, Inflatable liferaft with SOLAS A pack, liferaft with SOLAS B pack, Inflatable liferaft with SOLAS B pack, Inflatable liferaft with coastal service pack, inflatable buoyant apparatus, life float, buoyant apparatus. A survival craft higher in the hierarchy may be substituted for any survival craft required in this table.

2. If a vessel carries 3 or fewer individuals within 12 miles of the coastline, see § 28.120 (b) and (c) for carriage substitution.

8. In § 28.225, paragraphs (a)(3)(i) and (a)(3)(ii) are revised to read as follows:

**§ 28.225 Navigational information.**

(a) \* \* \*

(b) \* \* \*

(i) Tide tables promulgated by the National Ocean Service; and

(ii) Tidal current tables promulgated by the National Ocean Service, or river current publication issued by the U.S. Corps of Engineers or a river authority.

\* \* \* \* \*

9. In section 28.270, paragraph (c) is revised to read as follows:

**§ 28.270 Instructions, drills, and safety orientation.**

\* \* \* \* \*

(c) *Training.* No individual may conduct the drills or provide the instructions required by this section unless that individual has been trained in the proper procedures for conducting the activity. An individual licensed for operation of inspected vessels of 100 gross tons or more will need to comply with the requirements in § 28.275.

\* \* \* \* \*

10. Section 28.275 is added to read as follows:

**§ 28.275 Acceptance criteria for instructors and course curricula.**

(a) A Fishing Vessel Safety Instructor shall submit a detailed course curriculum that relates directly to the contingencies listed in § 28.270(a), or a

letter certifying the use of the “Personal Survival and Emergency Drills Course,” a national standard curriculum, to the cognizant OCMI. This document can be ordered through the United States Marine Safety Association (USMSA), 1900 Arch Street, Philadelphia, PA 19103–1498. For the criteria of Fishing Vessel Safety Instructor, the following documentation shall be provided to the cognizant OCMI:

(1) Proof of at least 1 year of experience in a marine related field and experience that relates directly to the contingencies listed in § 28.270(a) including—

(i) Experience as an instructor; or

(ii) Training received in instructional methods; or

(2) A valid merchant mariner’s license issued by the Coast Guard authorizing service as a master of inspected vessels of 100 gross tons or more, or master of uninspected fishing industry vessels and proof of experience that relates directly to the contingencies listed in 46 CFR 28.270(a) including—

(i) Experience as an instructor; or

(ii) Training received in instructional methods.

(b) Each OCMI will issue a letter of acceptance to all qualified individuals and will maintain a list of accepted instructors in his/her zone.

(c) Letters of acceptance shall be valid for a period of 5 years.

(d) Fishing Vessel Safety Instructors or the organization providing training shall issue documents to Fishing Vessel Drill Conductors upon successful completion of all required training.

11. Section 28.320 paragraph (b) is revised to read as follows:

**§ 28.320 Fixed gas fire extinguishing systems.**

\* \* \* \* \*

(b) *System types and alternatives.*

(1) A pre-engineered fixed gas fire extinguishing system may be installed only in a normally unoccupied machinery space, paint locker, or space containing flammable liquid stores that has a gross volume of not more than 33.98 cubic meters (1200 cubic feet).

(2) A fixed gas fire extinguishing system that is capable of automatic discharge upon heat detection may be installed only in a normally unoccupied space with a gross volume of not more than 169.92 cubic meters (6000 cubic feet).

(3) A space with a gross volume exceeding 169.92 cubic meters (6000 cubic feet) must be fitted with a manually actuated and alarmed fixed gas fire extinguishing system.

12. In § 28.380, paragraph (j) is revised to read as follows:

**§ 28.380 General structural fire protection.**

\* \* \* \* \*

(j) *Cooking areas.* Vertical or horizontal surfaces within 0.9144

meters (3 feet) of cooking appliances must be composed of noncombustible material or covered by noncombustible material. Curtains, draperies, or free hanging fabrics are not permitted within 0.9144 meters (3 feet) of cooking appliances.

13. In § 28.555, paragraphs (c) and (d) are revised to read as follows:

**§ 28.555 Freeing ports.**

\* \* \* \* \*

(c) Except as provided by paragraphs (d) through (h) of this section, the

aggregate clear area of freeing ports on each side of the vessel must not be less than 0.71 plus 0.035 times the length of the bulwark, in meters, for area in square meters, or 7.6 plus 0.115 times the length of the bulwark, in feet, for the area in square feet. The length of bulwark need not exceed 0.7 times the overall length of the vessel.

(d) Except as provided in paragraphs (e) through (h) of this section, for bulwarks which exceed 20.11 meters (66 feet) in length, the aggregate clear area of freeing ports on each side of the

vessel must not be less than 0.07 times the length of the bulwark, in meters, for an area in square meters (0.23 times the length of the bulwark in feet, for an area in square feet). The length of the bulwark need not exceed 0.7 times the overall length of the vessel.

\* \* \* \* \*  
Dated: October 16, 1995.

J.C. Card,  
*Rear Admiral, U.S. Coast Guard Chief, Marine Safety and Environmental Protection.*  
[FR Doc. 96-28406 Filed 11-4-96; 8:45 am]  
BILLING CODE 4910-14-M

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**Part VIII**

**Department of  
Health and Human  
Services**

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**Food and Drug Administration**

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**21 CFR Parts 50, 312, and 812  
Protection of Human Subjects; Informed  
Consent Verification; Final Rule**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Parts 50, 312, and 812**

[Docket No. 95N-0359]

**Protection of Human Subjects; Informed Consent Verification****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its current informed consent regulations to require that the consent form signed by the subject or the subject's legally authorized representative, be dated by the subject or the subject's legally authorized representative at the time consent is given. FDA is also amending its regulation on case histories to clarify what adequate case histories include and to clarify that the case histories must document that informed consent was obtained prior to participation in a study. FDA is taking this action in response to problems the agency has had on occasion verifying that informed consent was obtained from a research subject prior to participation in a study because the consent document was not dated and other verification was not contained in the individual's case history documentation. The agency believes that by explicitly requiring that the consent form be dated at the time it is signed and requiring the case history to document that consent was obtained prior to participation in a study, the agency will be able to help ensure that informed consent was, in fact, obtained prior to entry into the study as required by FDA regulations.

**DATES:** The regulation is effective December 5, 1996.**FOR FURTHER INFORMATION CONTACT:** Gary L. Chadwick, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1685.**SUPPLEMENTARY INFORMATION:****I. Background**

In the Federal Register of December 22, 1995 (60 FR 66530), FDA proposed to amend FDA's current informed consent regulations to require that the written consent form signed by the subject or the subject's legally authorized representative, be dated by the subject or the subject's legally authorized representative at the time consent is given. FDA also proposed to amend its regulation on case histories to

clarify what adequate case histories include.

Interested persons were given until March 21, 1996, to comment on the proposed rule. The agency received a total of eight comments: One from a patient advocacy group, three from pharmaceutical companies, one from a medical device company, and three from private individuals. All of these comments supported the proposal to amend the agency's informed consent regulations to require that consent forms be dated by the subject or subject's legally authorized representative at the time consent is given. One comment expressed support for the agency's proposal to clarify the meaning of adequate case histories; the remaining comments were silent on this issue. Several of these comments recommended additional changes to the informed consent regulations. These comments and FDA's responses are discussed below.

**II. Comments**

1. One comment suggested that the agency should require not only the date, but also the time, that the consent form was signed in order to be able to verify that consent was obtained prior to a subject's entry into a study. This comment expressed concern by the potential 24-hour window created by requiring the date and not the time for research subjects who sign the consent form on the day that they begin their participation in the study. The comment suggested that this 24-hour window should be closed to ensure that investigators fulfill their responsibilities and to enable the agency to verify that consent is obtained prior to entry into the study. The comment provided the following three additional reasons for requiring the time of day that the consent form is signed: (1) The role of informed consent in clinical investigations is to help ensure voluntary decisionmaking about enrollment in a study, (2) documentation of the timing of the signature helps to provide evidence of when consent was obtained in relation to when the investigational intervention commenced, and (3) the interest of historians and scholars in knowing whether the research was conducted in accordance with societal standards related to the conduct of research.

The agency has considered this comment and whether the regulation should be modified to permit verification that consent was obtained prior to a subject's entry into a study when both consent is obtained and participation in a study occur on the same day. The agency agrees that when,

for example, the consent form is signed on the same day that the subject begins participation in the study, it may not be able to verify from a dated consent form that consent was obtained prior to an individual's participation in the research; therefore, other documentation may be needed. However, the agency does not think that it is appropriate to require the time of signature to be included on every consent form in order to permit this verification.

FDA notes that adding the time of day to the consent form may not provide the additional assurance suggested by the comment. The investigational new drug application and investigational device exemption regulations (parts 312 and 812 (21 CFR parts 312 and 812)) do not require the time of day to be recorded in the individual's case history for each research intervention. In practice, the time of day is generally not recorded in case histories, except when time-sensitive procedures are carried out. Therefore, recording the time of day on the consent form may not establish that the form was signed before participation in the study. Rather than requiring the time of day to accomplish the agency's verification goal, the agency has modified §§ 312.62(b) and 812.140(a)(3)(i) to allow flexibility in approaches to providing verification. These sections now state "The case history for each individual shall document that informed consent was obtained prior to participation in the study." This case history documentation may be contained in the case report form; in the individual's medical record, e.g., in progress notes of the physician, on the individual's hospital chart, in the nurse's notes; on the consent form; in a combination of these documents; or elsewhere in the individual's case history. The documentation may consist of, e.g., a chronological record of the sequence of events that establishes that informed consent was obtained prior to a procedure required by the clinical investigation, or the time that consent was obtained and the time of the first study-related procedure performed on the individual.

The agency notes that 21 CFR 56.109(c) provides for an exception from the requirement for written documentation of informed consent and that part 50 (21 CFR part 50) provides for certain limited exceptions to the requirement for obtaining informed consent. This rule does not change those regulatory provisions.

2. Another comment recommended that the agency conduct a comprehensive review of the informed consent process, noting that a "flaw in the system has been the failure of IRBs

to insist that the consent form be drafted in lay language" and that such a review would disclose other problems. This comment went on to note that during FDA inspections, the comment was unaware of FDA challenging the content of consent forms.

This comment does not request a change in the regulations. The agency already requires consent documents to describe, in language that is understandable to subjects, all relevant information about the study.

Under the agency's Bioresearch Monitoring Program, FDA conducts onsite inspections of institutional review boards (IRB's) and clinical investigators. During the IRB inspections, IRB members and/or administrators are interviewed regarding procedures and then IRB records are inspected to verify compliance with parts 50 and 56. During these inspections, copies of informed consent forms approved by the IRB are collected and reviewed by agency components. Under FDA's clinical investigator compliance program, FDA conducts study-specific inspections and audits of investigators conducting clinical trials of FDA-regulated products. These inspections also include an evaluation of whether the informed consent document conforms to FDA regulations (part 50). Through these inspections, the agency is able to assess whether there are common problems with these documents such as their failure to include all the required elements of informed consent specified in § 50.25 and their failure to explain technical/scientific language. FDA provides information to IRB's and investigators to address these issues. (See the "FDA Information Sheets for Institutional Review Boards and Clinical Investigators" reprinted March 1996, pages 52–53. Copies are available from Gary L. Chadwick, Office of Health Affairs (address above) or on the World Wide Web (<http://www.fda.gov/oc/oha/informed.html>).)

To improve the quality of consent forms, following an inspection where deficiencies are found, FDA explains its regulatory requirements as well as deficiencies found in consent forms to clinical investigators and IRB's in post-inspection letters. FDA also carries out a wide variety of educational efforts in the area of human subject protection; a part of these educational efforts is focused on issues associated with informed consent. By making clinical investigators and IRB's aware of FDA regulatory requirements and problems related to informed consent and human subject protection, FDA thinks that the

consent process and the protections provided to research subjects will be improved.

3. One comment recommended that the requirement that the consent form be dated at the time the form is signed not be retrospectively applied to research subjects entered into a study prior to the effective date of the final rule.

The agency agrees with this comment and does not intend to retrospectively apply this rule to research subjects entered into a study prior to its effective date. Thus, this final rule applies to research subjects entered into studies on or after the effective date of this regulation.

4. Another comment recommended that § 50.27(b)(2) be amended to require that "short forms and summaries" be dated at the time that they are signed.

The agency does not think that § 50.27(b)(2) needs to be revised. The provision set forth in § 50.27(a) requiring that a written consent form be dated at the time of consent applies both to a written consent document that embodies the elements of informed consent (§ 50.27(b)(1)) as well as to a "short form" written consent document (stating that the elements of informed consent required by § 50.25 have been presented orally to the subject or the subject's legally authorized representative (§ 50.27(b)(2))). Thus, the agency is not revising § 50.27(b)(2).

5. One comment was received on the clarifying amendment of what constitutes adequate case history records. The comment supported the amendment; however, the agency believes that the respondent misunderstood the agency's intention. The comment suggested that the proposed change to § 312.62(b) would allow case report forms to be collected earlier by the sponsor because investigators would not need to transcribe information onto a case report form if that information were contained in the subject's medical records.

This comment misinterpreted the clarifying amendment to § 312.62(b). The revisions to this section were to clarify that adequate case history records include the case report forms and supporting data, including, e.g., signed and dated consent forms and medical records. The purpose of the case report form is to provide sufficient information for the sponsor to evaluate the use of the product in an individual subject; thus, the case report form may need to duplicate information contained in the subject's medical record. If the case report form is made a permanent part of the subject's medical record, then the medical record may not need

to contain information that is contained in that case report form. In most instances, the agency thinks that information is typically entered into the subject's medical record first; then, it is entered onto the case report form for transmittal to the research sponsor.

6. On the agency's own initiative, it has made technical changes to the conforming amendments at §§ 312.53, 312.62, and 812.140(a)(3). In § 312.53(c)(1)(vi)(d), "patients" has been changed to "potential subjects" to clarify that an individual who participates in a research study may be either a healthy individual or a patient. In addition, the agency has deleted the phrase "or any persons used as controls" because "subject" is defined as a recipient of an investigational new drug or as a control. (See § 312.3(b).) In § 312.62(b), "treated with the investigational drug" has been changed to "administered the investigational drug" to clarify that the administration of an investigational drug may not constitute treatment. In § 312.62(b), examples have been added to describe the variety of documents that are considered to be part of an individual's medical record. These documents include, for example, progress notes of the physician, the individual's hospital chart(s), and the nurses' notes. Section 812.140(a)(3) has been amended to clarify what constitutes adequate case history records and to provide examples of the variety of documents that are considered to be part of an individual's medical record; this clarification is consistent with the language contained in § 312.62(b).

### III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

### IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and

principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This rule simply adds a requirement that consent forms be dated at the time that they are signed and that the individual's case history documents that consent was obtained prior to participation in a study in order to permit the agency to verify that informed consent is obtained prior to an individual's entry into a research study. Because the majority of consent forms are currently dated at the time that they are signed and the majority of case histories currently contain this verifying information, the Commissioner of Food and Drugs certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

#### V. Paperwork Reduction Act of 1995

This final rule contains no additional information collection requirements which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

#### List of Subjects

##### 21 CFR Part 50

Human research subjects, Informed consent, Prisoners, Reporting and recordkeeping requirements, Safety.

##### 21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

##### 21 CFR Part 812

Health records, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 50 is amended as follows:

## PART 50—PROTECTION OF HUMAN SUBJECTS

1. The authority citation for 21 CFR part 50 continues to read as follows:

Authority: Secs. 201, 406, 408, 409, 502, 503, 505, 506, 507, 510, 513-516, 518-520, 701, 721, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c-360f, 360h-360j, 371, 379e, 381); secs. 215, 301, 351, 354-360F of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263b-263n).

2. Section 50.27 is amended by revising paragraph (a) to read as follows:

### § 50.27 Documentation of informed consent.

(a) Except as provided in § 56.109(c), informed consent shall be documented by the use of a written consent form approved by the IRB and signed and dated by the subject or the subject's legally authorized representative at the time of consent. A copy shall be given to the person signing the form.

\* \* \* \* \*

## PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

3. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

4. Section 312.53 is amended by revising paragraph (c)(1)(vi)(d) to read as follows:

### § 312.53 Selecting investigators and monitors.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(vi) \* \* \*

(d) Will inform any potential subjects that the drugs are being used for investigational purposes and will ensure that the requirements relating to obtaining informed consent (21 CFR part 50) and institutional review board review and approval (21 CFR part 56) are met;

\* \* \* \* \*

5. Section 312.62 is amended by revising paragraph (b) to read as follows:

### § 312.62 Investigator recordkeeping and record retention.

\* \* \* \* \*

(b) *Case histories.* An investigator is required to prepare and maintain

adequate and accurate case histories that record all observations and other data pertinent to the investigation on each individual administered the investigational drug or employed as a control in the investigation. Case histories include the case report forms and supporting data including, for example, signed and dated consent forms and medical records including, for example, progress notes of the physician, the individual's hospital chart(s), and the nurses' notes. The case history for each individual shall document that informed consent was obtained prior to participation in the study.

\* \* \* \* \*

## PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

6. The authority citation for 21 CFR part 812 continues to read as follows:

Authority: Secs. 301, 501, 502, 503, 505, 506, 507, 510, 513-516, 518-520, 701, 702, 704, 721, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331, 351, 352, 353, 355, 356, 357, 360, 360c-360f, 360h-360j, 371, 372, 374, 379e, 381); secs. 215, 301, 351, 354-360F of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263b-263n).

7. Section 812.140 is amended by revising the introductory text of paragraph (a)(3) and adding a new sentence to the end of paragraph (a)(3)(i) to read as follows:

### § 812.140 Records.

(a) \* \* \*

(3) Records of each subject's case history and exposure to the device. Case histories include the case report forms and supporting data including, for example, signed and dated consent forms and medical records including, for example, progress notes of the physician, the individual's hospital chart(s), and the nurses' notes. Such records shall include:

(i) \* \* \* The case history for each individual shall document that informed consent was obtained prior to participation in the study.

\* \* \* \* \*

Dated: October 28, 1996.

William K. Hubbard,  
Associate Commissioner for Policy  
Coordination.

[FR Doc. 96-28411 Filed 11-4-96; 8:45 am]

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**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**  
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Plant-related quarantine, domestic:  
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**AGRICULTURE DEPARTMENT**

**Federal Crop Insurance Corporation**  
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Forage production crop; comments due by 11-12-96; published 9-13-96

**AGRICULTURE DEPARTMENT**

**Food and Consumer Service**  
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**ARMS CONTROL AND DISARMAMENT AGENCY**

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**COMMERCE DEPARTMENT****National Oceanic and Atmospheric Administration**

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Bering Sea and Aleutian Islands groundfish; comments due by 11-12-96; published 9-19-96  
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**DEFENSE DEPARTMENT**

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**EDUCATION DEPARTMENT**

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**ENERGY DEPARTMENT**

Property management:  
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**ENVIRONMENTAL PROTECTION AGENCY**

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Guam; anti-dumping and detergent additization requirements for conventional gasoline; exemption petition; comments due by 11-15-96; published 10-16-96

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Pesticide programs:  
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**FARM CREDIT ADMINISTRATION**

Farm credit system:  
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#### **FEDERAL COMMUNICATIONS COMMISSION**

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#### **FEDERAL DEPOSIT INSURANCE CORPORATION**

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#### **GENERAL SERVICES ADMINISTRATION**

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#### **HEALTH AND HUMAN SERVICES DEPARTMENT**

##### **Food and Drug Administration**

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#### **INTERIOR DEPARTMENT**

##### **Land Management Bureau**

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#### **INTERIOR DEPARTMENT**

##### **Fish and Wildlife Service**

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#### **INTERIOR DEPARTMENT**

##### **Surface Mining Reclamation and Enforcement Office**

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#### **JUSTICE DEPARTMENT**

##### **Immigration and Naturalization Service**

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#### **LABOR DEPARTMENT**

##### **Occupational Safety and Health Administration**

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#### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

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#### **POSTAL SERVICE**

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#### **SECURITIES AND EXCHANGE COMMISSION**

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#### **TRANSPORTATION DEPARTMENT**

##### **Coast Guard**

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#### **TRANSPORTATION DEPARTMENT**

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#### **TRANSPORTATION DEPARTMENT**

##### **Federal Aviation Administration**

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#### **TRANSPORTATION DEPARTMENT**

##### **Maritime Administration**

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#### **TRANSPORTATION DEPARTMENT**

##### **Saint Lawrence Seaway Development Corporation**

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**TREASURY DEPARTMENT**

**Alcohol, Tobacco and  
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**Customs Service**

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